

CODE

CITY OF REDMOND
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF REDMOND,
WASHINGTON, AMENDING RMC 9.31.440,
INTOXICATING DRUGS, TO DELETE LANGUAGE IN
CONFLICT WITH RECENT CHANGES IN STATE LAW
RELATING TO THE POSSESSION AND USE OF
CONTROLLED SUBSTANCES AND TO REFER TO UPDATED
CITY REGULATIONS IN RMC 9.14

WHEREAS, Article XI Section 11 of the Washington State Constitution authorizes cities to establish such crimes as necessary to protect the public safety, health, and welfare, so long as said crimes do not conflict with state law; and

WHEREAS, the Legislature has authorized code cities such as Redmond to adopt and enforce misdemeanors and gross misdemeanors as appropriate to good government of the city through RCW 35A.11.020; and

WHEREAS, in 2021, the Washington State Supreme Court decided the case of *State v. Blake*, which struck down Washington's criminal statute prohibiting possession of a controlled substance. The court reasoned that the lack of a requirement to prove knowledge of possession did not force the state to prove criminal intent, violating the defendant's right to due process; and

WHEREAS, on May 16, 2023, Senate Bill 5536 was passed at a special session by the Senate and House of Representatives; and

WHEREAS Senate Bill 5536 now makes knowing possession and/or use of a controlled substance or a counterfeit substance in a public place a gross misdemeanor, which will be punishable up to 180 days in jail for the first two convictions, a \$1000 fine or both; and

WHEREAS, Chapter 9.14 of the Redmond Municipal Code (RMC) has been amended to reflect the recent changes to state law and currently identifies certain criminal acts relating to controlled substances and legend drugs by adopting RCW 69.50.412, RCW 69.50.4011 and 69.50.4014; and

WHEREAS, the city's current park code, RMC 9.31.440, is now in conflict with state law and should be amended to delete the conflicting language and to reference RMC Chapter 9.14 for drug-related offenses; and

WHEREAS, the City Council desires to act to keep the community safe, and the City Council desires to provide law enforcement and the prosecutor lawful ordinances to enforce to keep the community safe.

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

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City Code.

Section 2. Possession and Use of Controlled Substances.

RMC 9.31.440, entitled "Intoxicating Drugs", is hereby amended to read as follows:

9.31.440 Intoxicating Drugs

[~~INTOXICATING DRUGS~~] Possession and Use of Controlled Substances.

~~[A. IT IS UNLAWFUL FOR ANY PERSON TO BRING INTO ANY PARK OR CONSUME BY MOUTH, INHALATION OR INJECTION, WHILE IN ANY PARK, ANY INTOXICATING NARCOTIC OR DANGEROUS DRUGS OR TO CONSUME BY ANY SUCH METHOD ANY MATERIAL OR SUBSTANCE (SUCH AS GLUE, FOR EXAMPLE) CAPABLE OF PRODUCING A STATE OF INTOXICATION OR EUPHORIA. PROVIDED, HOWEVER, THAT THIS SECTION SHALL NOT BE APPLIED TO ANY PERSON CONSUMING A DRUG OBTAINED BY SUCH PERSON BY LAWFUL PRESCRIPTION AND TAKEN PURSUANT TO THE MEDICAL DIRECTION OF A LICENSED PHYSICIAN.~~

Possession and use of controlled substances in city parks shall be governed by Chapter 9.14 of this code, as the same now exists or as hereafter amended or superseded.

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. This ordinance shall become effective thirty days after its publication, or publication of a summary thereof, in the city's official newspaper, or as otherwise provided by law.

ADOPTED by the Redmond City Council this _____ day of _____, 20XX.

CITY OF REDMOND

ANGELA BIRNEY, MAYOR

ATTEST:

CHERYL XANTHOS, MMC, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

JAMES HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
SIGNED BY THE MAYOR:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.