

CITY OF RENTON, WASHINGTON

ORDINANCE NO. 6112

AN ORDINANCE OF THE CITY OF RENTON, WASHINGTON, REPEALING AND REPLACING TITLE VI, CHAPTER 12 OF THE RENTON MUNICIPAL CODE TO REGULATE DANGEROUS DRUGS AND DRUG WASTE, AUTHORIZING CORRECTIONS, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Washington Supreme Court, in its decision, *State v. Blake*, 197 Wn.2d 170 (2021), deemed Washington State’s law criminalizing possession of controlled substances as an unconstitutional violation of due process because it did not require proof the possessor knew they possessed the substance; and

WHEREAS, in response to *Blake*, Washington’s sixty-seventh legislature enacted Senate Bill 5476, addressing justice system responses and behavioral health prevention, treatment, and related services by making drug possession a misdemeanor, adding a knowledge element, and requiring the diversion of substance abusers into treatment programs in lieu of jail booking; and

WHEREAS, the provisions of Senate Bill 5476 adding the knowledge element and penalizing possession as a misdemeanor will expire on July 1, 2023; and

WHEREAS, in the first special session of Washington’s sixty-eighth legislature, the Second Engrossed Second Substitute Senate Bill 5536 was enacted into law, modifying the criminal penalty for knowing possession of controlled substances and creating a new crime of knowing use of controlled substances in a public place; and

WHEREAS, following the enactment of the Second Engrossed Second Substitute Senate Bill 5536, it is unnecessary for the City to adopt its own law prohibiting knowing possession of

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controlled substances, because it already adopts and enforces state laws pursuant to Title VI, Chapter 10 of the Renton Municipal Code; and

WHEREAS, it remains punishable as a felony to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance under existing Washington law; and

WHEREAS, the City of Renton as a non-charter code city is empowered by the Washington constitution to enact local police, sanitary and other regulations that are not in conflict with general laws; and

WHEREAS, Washington's Supreme Court, in its decision in *City of Tacoma v. Luvane*, 118 Wn.2d 826 (1992), has upheld the authority of cities to criminalize certain drug-related activity where those laws do not conflict with the state's Uniform Controlled Substances Act; and

WHEREAS, the Second Engrossed Second Substitute Senate Bill 5536 more explicitly restricts local governments from separately regulating drug paraphernalia but leaves in place local government's authority to regulate impacts of drugs and drug related activity consistent with the decision in *Luvane*; and

WHEREAS, improper disposal of drugs and drug waste poses significant risks to the health and safety of the public, such as first responders, public employees, volunteers, children, and other members of the public coming into contact with or accidentally consuming, inhaling, or being injected with Dangerous Drugs; and

WHEREAS, as a result of these risks, it is necessary to take steps to deter those who use or otherwise handle dangerous drugs and drug waste from improperly disposing or leaving unattended such dangerous drugs or drug waste so as to not create risks of unsafe exposures and increased costs to maintain public places;

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

SECTION I. All portions of the Renton Municipal Code in this ordinance that are not shown in strikethrough and underline edits or are not explicitly repealed herein remain in effect and unchanged.

SECTION II. Title VI, Chapter 12 of the Renton Municipal Code is repealed in its entirety and replaced to read as follows:

**CHAPTER 12
REGULATION OF DANGEROUS DRUGS AND DRUG WASTE**

6-12-1: Definitions

6-12-2: Unlawful Public Dangerous Drug Activities

6-12-3: Negligent Handling of Dangerous Drugs or Drug Waste

6-12-4: Diversion Programs

6-12-5: Severability Clause

6-12-1 DEFINITIONS:

For purposes of this Chapter, the following terms shall be defined as follows:

DANGEROUS DRUGS: include any of the following:

A. Any controlled substance, excluding cannabis, or controlled substance analog as those terms are defined in RCW 69.50.101, as those terms now exist or shall hereafter be amended or recodified.

B. Any controlled substance or legend drug that is falsely labeled so as to appear to have been legitimately manufactured or distributed, or to mislead as to the actual contents or nature of the substance contained therein.

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C. Any legend drug. As used herein, "legend drug" means any drug which is required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or is restricted to use by practitioners only.

DRUG WASTE: shall mean any object that is: (a) not safely controlled or stored so as to avoid the risk of potentially harmful contact or consumption by others; and (b) either (i) contains any Dangerous Drug (including traces or residue thereof) or (ii) which a person observing the object reasonably concludes that the object is likely to contain Dangerous Drugs (including traces or residue thereof).

PUBLIC PLACE: means an area that is generally open to public access according to law, invitation, custom, or license. This definition is intended to include without limitation: sidewalks, parking lots and parking garages, streets, alleys, highways, or roads; public buildings and grounds, including schools, parks, playgrounds, and meeting halls; establishments to which the public is invited including restaurants, theaters, stores, gas stations, meeting halls, government offices, lobbies, halls and dining rooms of hotels, bars, taverns, pubs, or establishments where alcohol or soft drinks may be sold, and their associated parking lots, parking structures, walkways, doorways, and entrances; railroad trains, light rail facilities, buses, and other public conveyances of all kinds and character, and their associated stations and platforms used in conjunction therewith which are open to use and access by the public; and all other places of like or similar nature.

6-12-2 UNLAWFUL PUBLIC DANGEROUS DRUG ACTIVITIES:

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A. It is unlawful for any person to knowingly commit an act that is viewable from a public place if such act is a substantial step toward manufacturing, handling, holding, transferring, buying, selling, exchanging, displaying, concealing, or storing, or preparing for consumption, injecting, ingesting, inhaling, or introducing into the human body any dangerous drugs, except as provided below:

1. It is not a violation of this section to commit an act that is expressly authorized by local, state or federal laws, codes, or regulations, including but not limited to the laws found in Chapter 69.41 RCW, Chapter 69.43 RCW, Chapter 69.50 RCW, Chapter 69.51A RCW, Chapter 69.52 RCW, and Chapter 13 of Title 21 U.S.C. Ch. 13, as such laws exist or are hereafter amended or recodified.

2. It is not a violation of this section if the person's act is in furtherance of a lawful written or oral prescription issued by a medical professional who is legally licensed and authorized to prescribe the use for authorized medical purposes.

a. This exception includes, but is not limited to, a person picking up a lawfully prescribed medication from a licensed pharmacy and delivering it to the patient who was prescribed the medication for their authorized medical use.

b. This exception shall not apply to any act that is in furtherance of consumption, injection by, inhalation by, or introduction into a

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person other than whom the medication was prescribed for use nor for any act that is inconsistent with the prescribed medical use.

B. A violation of this section is a gross misdemeanor, punishable as follows:

1. By imprisonment of up to 180 days in jail, or by a fine of not more than \$1,000, or by both such imprisonment and fine; or

2. If the defendant has two or more prior convictions under this section or other state or local law regulating dangerous drugs, a third or subsequent violation of this section is punishable by imprisonment for up to 364 days, or by a fine of not more than \$1,000, or by both such imprisonment and fine.

6-12-3 NEGLIGENT HANDLING OF DANGEROUS DRUGS OR DRUG WASTE:

A. Dangerous Drugs shall be safely stored and disposed of in accordance with all applicable local, state, or federal laws, codes, rules, or regulations so as to avoid risk of accidental exposure or contact by any person.

B. It is unlawful for any person to negligently dump, discard, deposit, throw, discharge, or leave unattended any dangerous drug or any drug waste in any public place or solid waste collection container where another person could accidentally come into contact with the dangerous drug or drug waste.

C. A violation of this section is a gross misdemeanor, punishable by up to 364 days in jail and a \$5000 fine.

6-12-4 DIVERSION PROGRAMS:

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To the extent sufficient resources are available, those responsible for enforcing this chapter may use community court or create diversion or therapeutic programs designed to provide those accused of violating this chapter an opportunity to seek needed addiction treatment. Such diversion programs may be formally structured or allow for informal exercises of discretion. Regardless of the availability of formal diversion programs, police officers, prosecutors, and judges are encouraged to exercise discretion to offer leniency in sentencing and/or diversion from conviction of charges under this Chapter for those who successfully complete available addiction treatment or other services that are deemed helpful to avoiding continued violations of this chapter.

6-12-5 SEVERABILITY CLAUSE:

This Chapter is specifically intended to be consistent with and not conflict with applicable state or federal laws. If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of the Chapter, or the application of the provision to other persons or circumstances, shall not be affected. To the extent a court finds that state law preempts any penalty established in this Chapter and requires an act made unlawful by this Chapter be punished differently than provided herein, the Renton Municipal Court shall retain jurisdiction over the violation of this Chapter and impose the punishment required by state law in lieu of the penalties prescribed herein.

SECTION III. Upon approval of the City Attorney, the City Clerk is authorized to direct the codifier to make necessary corrections to this ordinance, including the corrections of

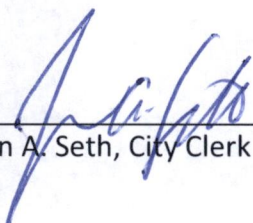
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scriveners or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references. The City Clerk is further authorized to direct the codifier to update any chapter, section, or subsection titles in the Renton Municipal Code affected by this ordinance.

SECTION IV. If any section, subsection, sentence, clause, phrase, or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.

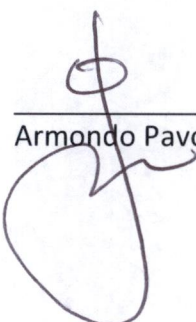
SECTION V. This ordinance shall be in full force and effect thirty (30) days after adoption. No later than five (5) days prior to such effective date, a summary consisting of this ordinance's title shall be published in the City's official newspaper.

PASSED BY THE CITY COUNCIL this 22nd day of May, 2023.



Jason A. Seth, City Clerk

APPROVED BY THE MAYOR this 22nd day of May, 2023.



Armondo Pavone, Mayor

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Approved as to form:



Shane Moloney, City Attorney

Date of Publication: 5/25/2023 (Summary)

ORD-ES: 2265: 5.18.23

