

ORDINANCE NO. 6825

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RELATING TO CONTROLLED SUBSTANCES AND REPEALING CHAPTER 9.22 OF THE AUBURN CITY CODE AND AMENDING ACC 9.24.010 TO CONFORM WITH ESB 5476

WHEREAS, on February 25, 2021, the Washington Supreme Court issued its opinion in State v. Blake (197 Wn.2d 170). The Blake decision held RCW 69.50.4013 (the State's felony drug possession law) unconstitutional because the RCW lacked the legal element of "knowing" possession;

WHEREAS, the State Legislature responded to Blake by passing ESB 5476, signed into law by Governor Inslee on May 14, 2021. ESB 5476 includes the following changes to State drug laws:

- Section 9 of ESB 5476 adds the required "knowing" element to RCW 69.50.4013, and reduces the RCW from a felony to a misdemeanor;
- Section 14 of ESB 5476 decriminalizes the use or delivery of personal use drug paraphernalia in RCW 69.50.412;

WHEREAS, these law changes allow the City to now prosecute State law drug possession as a misdemeanor, but also render the City's drug possession and paraphernalia ordinances in ACC 9.22 obsolete and inconsistent with State law as revised by ESB 5476;

WHEREAS, State law requires City ordinances to be consistent with State laws. Given the passage of ESB 5476 and its legal changes, the ordinances in ACC 9.22 should be repealed;

WHEREAS, ACC 9.24.010 should also be amended in light of ESB 5476 to remove its references to ACC 9.22 and to add precision and clarity to the other parts of that section.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. Repeal of chapter within the Auburn City Code. Auburn City Code Chapter 9.22 and the following sections and underlying ordinance language within it are hereby repealed:

ACC 9.22.010	Controlled substances prohibited
ACC 9.22.020	Drug paraphernalia prohibited
ACC 9.22.900	Statutes incorporated by reference

Section 2. Amendment to Auburn City Code. Auburn City Code Section 9.24.010 is amended as set forth in Exhibit A to this ordinance.

Section 3. Implementation. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 4. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application of it to any person or circumstance, will not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 5. Effective date. This Ordinance will take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

APPROVED AS TO FORM:

Kendra Comeau, City Attorney

ATTEST:

Shawn Campbell, MMC, City Clerk

Published: _____