

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2021-17

SUBJECT: Adopting RCW Relating to Possession of Controlled Substance

CONFORM AS TO DATES & SIGNATURES

- ☒ Filed with the City Clerk: 12/09/21
- ☒ Passed by the City Council: 12/15/21
- ☒ Signature of Mayor
- ☒ Signature of City Clerk
- ☒ Publication: 12/20/21
- ☒ Effective: 12/25/21
- ☐ Recorded: _____

DISTRIBUTED COPIES AS FOLLOWS:

- ☒ NK Herald: (Seattle Times) 12/16/21
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- ☒ Clerk's Department:
- ☐ City Council
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- ☐ _____

Rhiannon Fernandez
City Clerk

12/15/21
Date

ORDINANCE NO. 2021-17

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, AMENDING PMC 9.20.100 TO ADOPT RCW 69.50.4011 AND RCW 69.50.4013 RELATING TO POSSESSION OF CONTROLLED SUBSTANCES BY REFERENCE, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Poulsbo protects the public safety through the adoption by reference and enforcement of numerous Washington 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, in response to the *Blake* decision, the Washington Legislature passed, and the Governor subsequently signed, Engrossed Senate Bill (ESB) 5476, which, among other things, designates the knowing possession of controlled substances and counterfeit substances, and the unlawful possession of a legend drug, as criminal misdemeanors; and

WHEREAS, the Poulsbo City Council desires to amend Section 9.20.100 of the Poulsbo Municipal Code (PMC) in order to ensure that the current provisions of state law, as amended by ESB 5476 and other applicable enactments of the State Legislature, are accurately adopted by reference and enforceable within the City of Poulsbo; now, therefore,

**THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, DO ORDAIN AS
FOLLOWS:**

Section 1. Amendment of PMC 9.20.100. PMC 9.20.100 is hereby amended to adopt by reference RCW 69.50.4011 and RCW 69.50.4013, as the same now exist or as they may be hereafter amended, to delete RCW 69.50.425 (repealed by state), and to read as follows:

9.20.100 Offenses and penalties – Statutes Adopted by Reference

Pursuant to the authority contained in RCW 35A.12.140, the following sections of Chapter 69.50 RCW as enacted or hereafter amended are hereby adopted by reference as if fully set forth herein, including penalties:

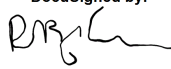
RCW

- 69.50.4011 Counterfeit substances – Penalties.
- 69.50.4013 Possession of controlled substance – Penalty – Possession of useable marijuana, marijuana concentrates, or marijuana-infused products – Penalty.
- 69.50.4014 Possession of forty grams or less of marijuana – Penalty.
- 69.50.404 Penalties under other laws.
- 69.50.407 Conspiracy.
- 69.50.408 Second or subsequent offenses.
- 69.50.412 Prohibited acts: E – Penalties.
- 69.40.4121 Drug paraphernalia – Selling or giving – Penalty.
- 69.50.420 Violations – Juvenile driving privileges.
- ~~69.50.425 Misdemeanor violations – Minimum penalties.~~
- 69.50.435 Violations committed in or on certain public facilities – Additional Penalty – Defenses – Construction – Definitions.
- 69.50.445 Opening or consuming package containing marijuana, useable marijuana, or marijuana-infused product in view of general public – Penalty.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the invalidity or unconstitutionality does not affect the valid or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. **Effective Date.** This ordinance shall take effect and be in full force five (5) days after publication of the attached summary which is hereby approved.

APPROVED:

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MAYOR, BECKY ERICKSON

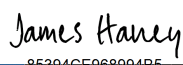
ATTEST/AUTHENTICATED:

DocuSigned by:

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CITY CLERK, RHIANNON FERNANDEZ, CMC

APPROVED AS TO FORM
OFFICE OF THE CITY ATTORNEY:

DocuSigned by:

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CITY ATTORNEY, JAMES E. HANEY

FILED WITH THE CITY CLERK: 12/9/2021
PASSED BY THE CITY COUNCIL: 12/15/2021
PUBLISHED: 12/20/2021
EFFECTIVE DATE: 12/25/21
ORDINANCE NO. 2021-17

SUMMARY OF ORDINANCE NO. 2021-17
of the City of Poulsbo, Washington

On 12/15/2022 the City Council of the City of Poulsbo, Washington, approved Ordinance No. 2021-17, the main point of which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, AMENDING PMC 9.20.100 TO ADOPT RCW 69.50.4011 AND RCW 69.50.4013 RELATING TO POSSESSION OF CONTROLLED SUBSTANCES BY REFERENCE, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this ordinance will be mailed upon request.

DATED this 15th day of December, 2021

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CITY CLERK, RHIANNON FERNANDEZ, CMC