

ORDINANCE NO. 988

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
AMENDING CHAPTER 9.10 CRIMINAL CODE OF THE SHORELINE
MUNICIPAL CODE.**

WHEREAS, with the adoption of Ordinance No. 73 on February 26, 1996, the City Council established the Shoreline Criminal Code, codified at Shoreline Municipal Code (SMC) Chapter 9.10; and

WHEREAS, SMC 9.10.200 to SMC 9.10.280 sets forth regulations for Controlled Substances, including drug paraphernalia, but these provisions have not been updated since 1996 despite amendments to Chapter 69.50 RCW Uniform Substance Control Act, the legalization of recreational cannabis, and the State Legislatures response to *State v. Blake (2021)*; and

WHEREAS, in 2023, during a special legislative session, the Washington State Legislature passed Second Engrossed Second Substitute Senate Bill No. 5536 (2nd ESSSB 5536) amending various provisions of RCW 69.50 Controlled Substance Act; and

WHEREAS, 2nd ESSSB 5536 established new penalties for controlled substances, amending RCW 69.50.4011, 69.50.4013, and RCW 69.50.4014, all of which were not previously incorporated into the SMC; and

WHEREAS, RCW 69.50.608 states that the state of Washington hereby fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act and Section 8 of 2nd ESSSB 5536 state the same for drug paraphernalia regulation within the boundaries of the state including regulation of the use, selling, giving, delivery, and possession of drug paraphernalia. RCW 69.50.608 and Section 8 also state that the City may only enact ordinances related to controlled substances and drug paraphernalia that are specifically authorized by state law and consistent with Chapter 69.50 RCW; and

WHEREAS, due to the passage of 2nd ESSSB 5536, certain provisions of SMC Chapter 9.10 must be repealed and/or amended to bring the municipal code into alignment with 2nd ESSSB 5536;

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

Section 1. Shoreline Municipal Code Chapter 9.10 Criminal Code – Sections Repealed.

The following sections of SMC Chapter 9.10 are repealed in their entirety:

- 9.10.210 Controlled Substances – Drug Paraphernalia – Possession Prohibited
- 9.10.220 Controlled Substances - Definitions
- 9.10.230 Controlled Substances – Minors
- 9.10.240 Controlled Substances – Minors Excluded

- 9.10.250 Controlled Substances – Sale and Display Rooms
- 9.10.260 Controlled Substances – Sale Restriction
- 9.10.270 Controlled Substances – Nuisance
- 9.10.280 Controlled Substances – Violation, penalty

Section 2. Shoreline Municipal Code Chapter 9.10 Criminal Code – Section Repealed

The following section of SMC Chapter 9.10 is repealed in its entirety and replaced to read as follows:

SMC 9.10.200 Controlled Substances

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 69.50.101 Definitions.

RCW 69.50.102 Drug Paraphernalia – Definitions.

RCW 69.50.309 Containers.

RCW 69.50.4011 Counterfeit Substances – Penalties

RCW 69.50.4013 - Possession of controlled substance—Penalty—Possession of useable cannabis, cannabis concentrates, or cannabis-infused products—Delivery.

RCW 69.50.4014 - Possession of forty grams or less of cannabis—Penalty.

RCW 69.50.412 Prohibited Acts: E – Penalties

RCW 69.50.4121 Drug Paraphernalia – Selling or giving – Penalty.

RCW 69.50.425 Misdemeanor violators –Minimum imprisonment.

RCW 69.50.505 Seizure and forfeiture.

RCW 69.50.506 Burden of proof.

RCW 69.50.509 Search and seizure of controlled substances.

RCW 69.50.4011(3) Counterfeit Substances – Penalties

RCW 69.50.4013 Possession of controlled substance—Penalty—Possession of useable cannabis, cannabis concentrates, or cannabis-infused products—Delivery.

RCW 69.50.4014 Possession of forty grams or less of cannabis—Penalty.

RCW 69.50.412 Prohibited Acts: E – Penalties

RCW 69.50.4121 Drug Paraphernalia – Selling or giving – Penalty.

Section 3. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this Ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 4. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to any person or situation.

Section 5. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall become effective five days after publication but no earlier than 12:01 am local time, August 15, 2023.

PASSED BY THE CITY COUNCIL ON AUGUST 14, 2023.



Keith Scully, Mayor

ATTEST:



Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:



Margaret King
City Attorney

Date of Publication: August 17, 2023

Effective Date: August 22, 2023