



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6375
November 21, 2023
Consent Agenda

AGENDA BILL INFORMATION

TITLE:	AB 6375: An Ordinance Amending MICC Ch. 9.50 (Second Reading Ord. No. 23C-16)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Adopt Ordinance No. 23C-16, amending MICC Ch. 9.50, Revised Code of Washington State Statutes Incorporated by Reference.	

DEPARTMENT:	Police
STAFF:	Mike Seifert, Police Commander Dominic Amici, Detective Sergeant Eileen Keiffer, Madrona Law Group, PLLC
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 23C-16
CITY COUNCIL PRIORITY:	n/a

AMOUNT OF EXPENDITURE	\$ n/a
AMOUNT BUDGETED	\$ n/a
APPROPRIATION REQUIRED	\$ n/a

EXECUTIVE SUMMARY

This agenda bill introduces Ordinance No. 23C-16 (Exhibit 1) for second reading and adoption. The purpose of this ordinance is legal cleanup to [MICC Ch. 9.50](#), Revised Code of Washington State Statutes Incorporated by Reference.

- In 2021, the Washington Supreme Court decided the seminal court case of *State v. Blake*, invalidating the state’s then strict liability drug possession statute.
- To avoid decriminalizing drug possession, the Washington Legislature first enacted a temporary fix.
- Upon approach of the termination date for the temporary fix, the Legislature enacted a permanent fix during the last legislative session.
- As a result of the *Blake* fix legislation, updates to MICC Ch. 9.50 are required to update RCW references.
- The City Council completed a first reading of Ordinance No. 23C-16 on November 7, 2023 ([AB 6363](#)).

BACKGROUND

In 2021, the Washington Supreme Court decided the seminal court case of *State v. Blake*, invalidating the state's then strict liability drug possession statute. To avoid decriminalizing drug possession, the Washington Legislature first enacted a temporary fix. Upon approach of the termination date for the temporary fix, the Legislature enacted a permanent fix during a special session.

MICC Ch. 9.50 adopts various provisions of the Revised Code of Washington (RCW) into the MICC by reference. As a result of the *Blake* fix legislation, updates to MICC Ch. 9.50 are required to update the RCW references. Further, Ch. 9.50 MICC appears to have last been amended in 1998 and accordingly, a general clean-up of the chapter to remove/replace outdated RCW references is warranted.

The following sections contain amendments:

- 9.50.010 – RCW Title 9, Crimes and punishments.
- 9.50.020 – RCW Title 9A, Washington criminal code.
- 9.50.030 – RCW Title 10, Criminal procedure.
- 9.50.040 – RCW Title 26, Domestic relations.
- 9.50.050 – RCW Title 66, Alcoholic beverage control.
- 9.50.060 – RCW Title 69, Food, drugs, cosmetics and poisons.
- 9.50.070 – RCW Title 70, Public health and safety.
- 9.50.080 – RCW Title 77, Fish and wildlife~~Game and game fish~~.

ISSUE/DISCUSSION

Ordinance No. 23C-16 (Exhibit 1) amends MICC Ch. 9.50, Revised Code of Washington State Statutes Incorporated by Reference, to adopt RCW sections enacted/amended by the Legislature in reaction to the *Blake* case, as well as to provide general housekeeping cleanup of the chapter, to remove/replace outdated RCW references. The City's prosecutor was consulted and participated in drafting and reviewing Ordinance No. 23C-16.

Should City Council decline to adopt the edits to MICC Ch. 9.50, citations for illegal drug possession or use would have to be written into King County District Court, rather than Mercer Island's Municipal Court. As a precursor to doing so, the City would first need to enter into a prosecution agreement with the King County prosecutor's office. The King County prosecutor's office reports that it has a large misdemeanor backlog. This backlog could result in a delay in case filing (or many cases simply not being filed at all).

The City Council expressed no concerns with Ordinance No. 23C-16 at its first reading during the November 7, 2023 Meeting. No changes have been made to the ordinance between the first and second readings.

RECOMMENDED ACTION

Adopt Ordinance No. 23C-16, amending MICC Ch. 9.50, Revised Code of Washington State Statutes Incorporated by Reference.