



**BUSINESS OF THE CITY COUNCIL
CITY OF MERCER ISLAND**

**AB 6101
June 21, 2022
Regular Business**

AGENDA BILL INFORMATION

TITLE:	AB 6101: An Ordinance Amending MICC Ch. 9.30 (First Reading Ord. No. 22C-10)	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Action Needed: <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution
RECOMMENDED ACTION:	Schedule Ordinance No. 22C-10 for second reading and adoption.	

DEPARTMENT:	City Attorney
STAFF:	Bio Park, City Attorney Eileen Keiffer, Madrona Law Group, PLLC
COUNCIL LIAISON:	n/a
EXHIBITS:	1. Ordinance No. 22C-10
CITY COUNCIL PRIORITY:	n/a

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

EXECUTIVE SUMMARY

The purpose of this agenda bill is necessary legal cleanup to MICC Ch. 9.30, Park Rules as a result of a ruling by the Washington Supreme Court in 2021 that held that strict liability possession statutes are unconstitutional. As discussed further below, certain changes to MICC Ch. 9.30 are required.

BACKGROUND

In 2021, the Washington Supreme Court held that the statute then criminalizing possession of illegal drugs on a strict liability basis was unconstitutional. *State v. Blake*, 197 Wn.2d 170, 481 P.3d 512 (2021). Strict liability means that no state of mind (*mens rea*) must be proven in connection with an offense (such as “knowingly,” “willingly,” etc.); rather, a person possessing an illegal drug could be convicted, even if they did not know or have reason to know that they possessed the drug. The Supreme Court held that strict liability possession offenses of this nature violate the due process protections provided by both the Washington and federal constitutions.

It is necessary to revise the MICC consistent with the *Blake* ruling to amend instances in which the MICC creates strict liability for possession. Specifically, Chapter 9.30, Park Rules, currently prohibits possession of fireworks in parks, as well as alcohol and drugs in parks (MICC 9.30.070 and 9.30.200, respectively) on a strict liability basis. Proposed Ord. No. 22C-10 will amend MICC Chapter 9.30 to add the mental state requirement

of “knowingly” to the possession offenses contained in MICC sections 9.30.070 and 9.30.200 in order to make the chapter compliant with the holding of the *Blake* decision.

ISSUE/DISCUSSION

The Ordinance will make two changes to MICC Ch. 9.30, Parks Rules, in order to comply with the *Blake* decision:

- 1) Amend MICC 9.30.070 to insert the word “knowingly” before the prohibition against possession of fireworks in parks.
- 2) Amend MICC 9.30.200 to insert the word “knowingly” before the prohibition against possession of alcohol or illegal drugs in parks.

The ordinance also contains a small clerical/syntax edit to MICC 9.30.200.

NEXT STEPS

Second reading of Ordinance No. 22C-10 can be scheduled for the July 19, 2022 City Council meeting.

RECOMMENDED ACTION

Schedule Ordinance No. 22C-10 for a second reading and adoption.