



BUSINESS OF THE CITY COUNCIL CITY OF MERCER ISLAND

AB 6363
November 7, 2023
Regular Business

AGENDA BILL INFORMATION

TITLE:	AB 6363: An Ordinance Amending MICC Ch. 9.50 (First Reading Ord. No. 23C-16)	<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:	Set Ordinance No. 23C-16 for second reading and adoption at the November 21, 2023 Meeting.	

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

The purpose of this agenda bill is to amend Mercer Island City Code ([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.

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 the last legislative 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9.50 MICC appears to have last been amended in 1998 and accordingly, a general cleanup of the chapter to remove/replace outdated RCW references is warranted.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 the new RCW sections enacted by the Legislature in reaction to the *Blake* case, as well as to provide general housekeeping cleanup of the chapter, to remove and/or 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).

RECOMMENDED ACTION

Set Ordinance No. 23C-16 for second reading and adoption at the November 21, 2023 City Council Meeting.