

**CITY OF MERCER ISLAND
ORDINANCE NO. 23C-16**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON,
AMENDING MERCER ISLAND CITY CODE CHAPTER 9.50, RELATING TO
REVISED CODE OF WASHINGTON STATE STATUTES INCORPORATED BY
REFERENCE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN
EFFECTIVE DATE.**

WHEREAS, in 2021, the Washington Supreme Court decided the case of *State v. Blake*, 481 P.3d 521 (2021), which invalidated Washington State’s then enacted strict liability drug possession statute; and

WHEREAS, in July of 2021, the Washington State Legislature adopted temporary legislation set to expire July 1, 2023, establishing the misdemeanor offense of knowing possession of prohibited substances; and

WHEREAS, in May of 2023, the Washington State Legislature adopted Senate Bill 5536 (“SB 5536”), enacting permanent provisions relating to the use and possession of prohibited substances; and

WHEREAS, current MICC Ch. 9.50 incorporates certain portions of the RCW by reference, but lacks express reference to certain RCW sections impacted by SB 5536; and

WHEREAS, MICC Ch. 9.50 has remained without major revision since its enactment in 1991 and many listed RCW sections are outdated; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

- Section 1. Amendment of MICC Ch. 9.50.** MICC Ch. 9.50, Revised Code of Washington State Statutes Incorporated by reference is hereby amended in the form attached hereto as Attachment A.

- Section 2. Severability.** If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this Ordinance or its application to any other person, property, or circumstance.

- Section 3. Publication and Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS MEETING ON NOVEMBER ____, 2023.

CITY OF MERCER ISLAND

Salim Nice, Mayor

ATTEST:

APPROVED AS TO FORM

Andrea Larson, City Clerk

Bio Park, City Attorney

Date of publication:

Attachment A

Chapter 9.50 - REVISED CODE OF WASHINGTON STATE STATUTES INCORPORATED BY REFERENCE

9.50.010 - RCW Title 9, Crimes and punishments.

The following statutes of RCW Title 9, Crimes and punishment, are adopted as follows:

RCW 9.01.130 Sending letter, when complete.

RCW 9.03.010 Abandoning, discarding refrigeration equipment.

RCW 9.03.020 Permitting unused equipment to remain on premises.

RCW 9.26A.090 Telephone company credit cards, prohibited acts.

RCW 9.26A.110 Fraud in obtaining telecommunications service—Penalty.

RCW 9.27.015 Interference, obstruction of any court, building or residence—Violations.

RCW 9.40.100 ~~Injuring or t~~Tampering with fire alarm apparatus or firefighting equipment—~~False alarm—Penalties.~~

RCW 9.41.050 Carrying firearms~~pistol.~~

RCW 9.41.080 Delivery to ineligible persons ~~minors and others forbidden.~~

RCW 9.41.098 Forfeiture of firearms—Disposition, order by courts. ~~Return to owner—Confiscation by law enforcement officer.~~

RCW 9.41.100 ~~Dealers to be licensed~~Dealer licensing and registration required.

RCW 9.41.110 Dealer's licenses, by whom granted, and conditions, fees thereof—Employees, fingerprinting and background checks—Wholesale sales excepted—Permits prohibited.

RCW 9.41.120 ~~Certain transfers forbidden~~Firearms as loan security.

~~RCW 9.41.130 False information forbidden.~~

RCW 9.41.140 Alteration of identifying marks—exceptions.

~~RCW 9.41.150 Exemptions—Antique firearms.~~

~~RCW 9.41.160 Penalty.~~

~~RCW 9.41.170 Aliens licensed to carry firearms—Exceptions.~~

~~RCW 9.41.180 Setting spring gun.~~

RCW 9.41.230 Aiming or discharging firearms, dangerous weapons.

RCW 9.41.240 ~~Use of firearms by minors~~ Possession of pistol or semiautomatic assault rifle by person from eighteen to twenty-one.

RCW 9.41.250 Dangerous weapons—~~Penalty~~ Evidence.

RCW 9.41.260 Dangerous exhibitions.

RCW 9.41.270 Weapons apparently capable of producing bodily harm, Unlawful carrying or handling, ~~exhibiting, displaying, or drawing unlawful~~—Penalty—Exceptions.

RCW 9.41.280 Students carrying dangerous weapons on school premises—Penalty—Exceptions.

RCW 9.41.300 ~~Firearms~~ Weapons prohibited in certain places, local laws and ordinances—Exceptions—Penalty.

RCW 9.41.810 Penalty.

~~RCW 9.45.062 Failure to deliver leased personal property—Requisites for prosecution—Construction.~~

RCW 9.46.062 Gambling—1973 Act (in its entirety).

RCW 9.47A.020 Unlawful inhalation—Exception.

RCW 9.47A.030 Possession of certain substances prohibited, when.

RCW 9.47A.040 Sale of certain substances prohibited, when.

RCW 9.47A.050 Penalty.

RCW 9.61.230 Telephone harassment, ~~calls to harass, intimidate, torment or embarrass.~~

RCW 9.61.240 Telephone harassment—Permitting telephone to be used, Telephone calls to harass, intimidate, torment or embarrass—Offense, where deemed committed.

RCW 9.68.060 "Erotic material"—Determination by court—Labelling—Penalties.

RCW 9.68A.070 Possession of depictions of minors engaged in sexually explicit conduct.

RCW 9.68A.150 Allowing minors on premises of live erotic performances—Definitions—Penalty.

~~RCW 9.68A.160 Penalty.~~

RCW 9.73.010 Divulging telegram.

RCW 9.73.020 Opening sealed letter.

RCW 9.73.030 Intercepting, recording or divulging private communications—Consent required—Exceptions.

RCW 9.73.080 ~~Intercepting, recording or divulging private communications—Penalties.~~

RCW 9.91.025 Unlawful transit bus conduct.

RCW 9.91.060 Leaving children unattended in parked automobile.

9.50.020 - RCW Title 9A, Washington criminal code.

The following statutes of RCW Title 9A, Washington criminal code, are adopted as follows:

RCW 9A.04.110 Definitions.

RCW 9A.08.010 General requirements of culpability.

RCW 9A.08.020 Liability for conduct of another—Complicity.

RCW 9A.08.030 Entity and personal liability~~Criminal liability of corporations and persons acting or under a duty to act on their behalf.~~

RCW 9A.36.041 Assault in the fourth degree.

RCW 9A.36.050 Reckless endangerment ~~in the second degree.~~

RCW 9A.36.070 Coercion.

RCW 9A.44.096 Sexual misconduct with a minor in the second degree.

RCW 9A.46.020 Definition—Penalties.

RCW 9A.46.030 Place where committed.

RCW 9A.46.040 Court-ordered requirements upon a person charged with crime—Violation.

RCW 9A.46.050 Arraignment—No-contact order.

RCW 9A.46.060 Crimes included in harassment.

RCW 9A.46.070 Enforcement of orders restricting contact.

RCW 9A.46.080 Order restricting contact—Violation.

RCW 9A.48.050 Reckless burning in the second degree.

RCW 9A.48.090 Malicious mischief in the third degree.

RCW 9A.48.100 Malicious mischief—"Physical damages" defined.

RCW 9A.52.060 Making or having burglar tools.

RCW 9A.52.100 Vehicle prowling in the second degree.

~~RCW 9A.52.120 Computer trespass in the second degree.~~

~~RCW 9A.52.130 Computer trespass—Commission of other crime.~~

RCW 9A.56.050 Theft in the third degree.

RCW 9A.56.060 Unlawful issuance of checks or drafts.

RCW 9A.56.140 Possession of stolen property—Definition—~~Access devices,~~ presumption.

RCW 9A.56.170 Possession of stolen property in the third degree.

RCW 9A.56.180 Obscuring the identity of a machine.

RCW 9A.56.270 Shopping cart theft.

RCW 9A.60.040 Criminal impersonation in the first degree.

RCW 9A.60.045 Criminal impersonation in the second degree.

RCW 9A.60.050 False certification.

RCW 9A.61.010 Definitions.

RCW 9A.61.020 Defrauding a public utility.

RCW 9A.61.050 Defrauding a public utility in the third degree.

RCW 9A.72.040 False swearing.

RCW 9A.72.140 Jury tampering.

RCW 9A.72.150 Tampering with physical evidence.

RCW 9A.76.020 Obstructing a law enforcement officer ~~public servant.~~

RCW 9A.76.030 Refusing to summon aid for a police officer.

RCW 9A.76.040 Resisting arrest.

RCW 9A.76.070 Rendering criminal assistance in the first degree.

RCW 9A.76.080 Rendering criminal assistance in the second degree.

RCW 9A.76.090 Rendering criminal assistance in the third degree.

RCW 9A.76.100 Compounding.

RCW 9A.76.130 Escape in the third degree.

RCW 9A.76.170 Bail jumping.

RCW 9A.80.010 Official misconduct.

RCW 9A.84.010 Criminal mischief~~Riot~~.

RCW 9A.84.020 Failure to disperse.

RCW 9A.84.030 Disorderly conduct.

RCW 9A.84.040 False reporting.

RCW 9A.88.010 Indecent exposure.

RCW 9A.88.030 Prostitution.

RCW 9A.88.050 Prostitution—Sex of parties immaterial—No defense.

RCW 9A.88.090 Permitting prostitution.

RCW 9A.88.110 Patronizing a prostitute.

9.50.030 - RCW Title 10, Criminal procedure.

The following statutes of RCW Title 10, Criminal procedure, are adopted as follows:

~~RCW 10.14.120 Disobedience of order—Penalties (temporary antiharassment order).~~

~~RCW 10.14.170 Criminal penalty (antiharassment protection order).~~

RCW 10.66.090 Penalties (~~off-limits orders~~) (~~drug traffickers~~).

RCW 10.99.020 Definitions.

RCW 10.99.030 ~~Law enforcement~~ Peace officers—Training, powers, duties.

~~RCW 10.99.040 Duties of court—No contact order—Emergency orders. Restrictions upon duties of court (no contact).~~

~~RCW 10.99.050 Victim contact—Restriction, prohibition—Violation, penalties—Written order—Procedures—Notice of change. Restrictions or prohibition of contact with victim—Violation, penalties—Written order—Procedures (post conviction).~~

9.50.040 - RCW Title 26, Domestic relations.

The following statutes of RCW Title 26, Domestic relations, including one chapter from RCW Title 7, are adopted as follows:

~~RCW 26.09.060 Temporary maintenance or child support—Temporary restraining order—Preliminary injunction—Domestic violence or antiharassment protection order—Notice of termination or modification of restraining order--Support debts, notice.~~

~~RCW 26.09.165 Court orders--required language.~~

~~RCW 26.09.300 Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity.~~

~~RCW 26.10.115 Temporary order—Support—Restraining orders—Preservation of support debt.~~

~~RCW 26.10.220 Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity.~~

~~RCW 26.28.080 Selling or giving tobacco to minor—Belief of representative capacity, no defense—Penalty. cigarettes to minors.~~

~~RCW 26.44.063 Temporary restraining order or preliminary injunction—Enforcement—Notice of modification or termination of restraining order.~~

~~RCW 26.44.067 Temporary restraining order or preliminary injunction—Contents—Notice—Noncompliance—Defense—Penalty.~~

~~RCW 26.44.130 Arrest without a warrant.~~

~~RCW Ch. 7.105 Civil Protection Orders.~~

~~RCW 7.105.450 Enforcement and penalties—Other than antiharassment protection orders and extreme risk protection orders.~~

9.50.050 - RCW Title 66, Alcoholic beverage control.

The following statutes of RCW Title 66, Alcoholic beverage control, are adopted by reference:

~~RCW 66.24.481 Public place or club—License or permit required—Penalty.~~

~~RCW 66.28.080 Permit for music and dancing upon licensed premises.~~

RCW 66.44.090 Acting without a license.

RCW 66.44.100 Opening or consuming liquor in public place.

RCW 66.44.180 General penalties—Jurisdiction for violations.

RCW 66.44.200 Sales to persons apparently under the influence of liquor—Purchases or consumption by persons apparently under the influence of liquor on licensed premises—Penalty—Notice—Separation of actions.

RCW 66.44.270 Furnishing liquor to minors—Possession, use—Penalties—Exhibition of effects—Exceptions.

RCW 66.44.290 Minor purchasing or attempting to purchase liquor—Penalty.

~~RCW 66.44.291 Minor purchasing or attempting to purchase liquor—Penalty against persons between ages of eighteen and twenty, inclusive.~~

RCW 66.44.300 ~~Treating, gifts purchases of liquor for or from minor, or holding out minor as at least twenty-one etc., in public place where liquor sold.~~

RCW 66.44.310 Minors frequenting off-limits areataverns or cocktail lounges—Misrepresentations of age—Penalty—Classification of licensees.

~~RCW 66.44.320 Sales of liquors to minors a violation.~~

RCW 66.44.325 Unlawful transfer to a minor of age an-identification-of age.

9.50.060 - RCW Title 69, Food, drugs, cosmetics, and poisons.

The following statutes of RCW Title 69, Food, drugs, cosmetics and poisons, are adopted by reference:

RCW 69.41.030 Sale, delivery or possession of legend drug without prescription or order prohibited—Exceptions—Penalty—Referral to assessment and services.

~~RCW 69.41.070 Penalties.~~

RCW 69.50.401 Prohibited Acts A—Penalties.

RCW 69.50.4011 Counterfeit substances—Penalties—Referral to assessment and services.

RCW 69.50.4013 Possession, use of controlled substance—Penalty—Referral to assessment and services—Possession of useable cannabis, cannabis concentrates, or cannabis-infused products—Delivery.

RCW 69.50.4014 Possession of forty grams or less of cannabis—Penalty—Referral to assessment and services.

RCW 69.50.412 Prohibited Acts E—Penalties.

RCW 69.50.4121 Drug paraphernalia—Selling—Penalty.

9.50.070 - RCW Title 70, Public health and safety.

The following statutes of RCW Title 70, Public health and safety, are adopted by reference:

RCW 70.93.060 Littering prohibited—Penalties.

RCW 70.155.080 Purchasing, possessing or obtaining tobacco by persons under the age of 18—Civil infractions—Jurisdiction.

RCW 70A.200.030 Definitions.

RCW 70A.200.060 Littering prohibited—Penalties—Litter cleanup restitution payment.

9.50.080 - RCW Title 77, Fish and Wildlife ~~Game and game fish.~~

The following statutes of RCW Title 77, Game and game fish, are adopted by reference:

RCW 77.156.460~~250~~ Loaded rifle or shotgun ~~firearms~~ in vehicles—Unlawful use or possession—Unlawful use of a loaded firearm—Penalty.

~~RCW 77.16.260 Shooting firearms from public highway.~~

9.50.090 - Effects of amendments or additions.

Addition of any new section to, or amendment or repeal of any section in this chapter, shall be deemed to amend the section which has been adopted by reference in this chapter or any part thereof.