

**CITY OF WEST RICHLAND
ORDINANCE NO. 10-21**

**AN ORDINANCE OF THE CITY OF WEST RICHLAND, WASHINGTON
AMENDING SECTIONS OF CHAPTER 9.40 AND CHAPTER 9.44 CRIMES OF
POSSESSION OF MARIJUANA AND DRUG PARAPHERNALIA AND
ALCOHOLIC BEVERAGES OF THE WEST RICHLAND MUNICIPAL CODE**

WHEREAS, the City of West Richland has need, from time to time, to amend the West Richland Municipal Code (WRMC) to promote the health, safety, and general welfare of the citizens of the community; and

WHEREAS, on February 25, 2021, the Washington State Supreme Court held in the case of State v. Blake, No. 96873-0, that RCW 69.50.4013(1) the statute that criminalized the possession of a controlled substance without a prescription- exceeds the state's police power and violates the due process clauses of the state and federal constitutions;

WHEREAS, the Supreme Court in State v. Blake ruled that someone has to have knowledge of possession of a controlled substance;

WHEREAS, the WRMC chapters 9.40 and 9.44 dealing with possession of marijuana and drug paraphernalia and possession of alcohol by minors needs to be amended to comply with the recent court case and to comply with other changes to the law;

NOW, THEREFORE, the City Council of the City of West Richland, Washington do hereby ordain as follows:

Section 1. Chapter 9.40.020 titled Possession unlawful, 9.40.025 titled Possession of marijuana under the age of 21- Penalty, and 9.40.070 titled Possession of paraphernalia- Unlawful conduct of the West Richland Municipal Code is hereby amended to read as follows:

9.40.020 Possession unlawful.

It is unlawful for any person to knowingly possess more than 28.35 grams of marijuana unless the same was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the laws of the state of Washington.

Except as provided in RCW 69.50.401(2)(c), every person convicted of a violation of the provisions of this section for possessing more than 28.35 grams of marijuana shall be guilty of unlawful possession of marijuana, a misdemeanor.

~~Except as provided in RCW 69.50.401(2)(c), any person found guilty of possession of 40 grams or less of marijuana is guilty of a misdemeanor. [Ord. 4-13 § 1, 2013; Ord. 36-12 § 2 (Att. A), 2012; Ord. 251 § 1.10.020, 1977].~~

9.40.025 Possession of marijuana under the age of 21 – Penalty.

It is unlawful for any person under the age of 21 years to knowingly possess marijuana in an amount less than 40 grams, as defined in WRMC 9.40.010, unless pursuant to a valid prescription or order of a practitioner in the course of his professional practice.

Except as provided in RCW 69.50.401(2)(c), any person under the age of 21 found guilty of possession of 40 grams or less of marijuana is guilty of a misdemeanor. [Ord. 4-13 § 1, 2013].

9.40.070 Possession of paraphernalia – Unlawful conduct.

It is unlawful for any person to knowingly use, or to possess with the intent to use, drug paraphernalia to plan, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by, the possession of which controlled substance is in violation of Chapter 69.50 RCW, or to sell, deliver, possess with the intent to sell or deliver, or manufacture with the intent to sell or deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by, the possession of which controlled substance is in violation of Chapter 69.50 RCW. Except as provided in RCW 69.50.401(2)(c), any person found guilty of possession of drug paraphernalia is guilty of a misdemeanor.

A. No person may, as a family or household member, intentionally use or threaten to use by purposeful words or acts, unlawful physical force against another ~~the~~ family or household member ~~of another~~.

B. A person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, he or she assaults another family or household member.

C. Any defense available to a person charged with the crime of "assault in the fourth degree" under RCW 9A.36.041 shall also be a defense to the crime of simple assault under this section.

D. Any crime charged under this section shall be a gross misdemeanor.

Section 2. Chapter 9.44.070 Purchase, possession, or consumption by minors prohibited of the West Richland Municipal Code is hereby amended to read as follows:

9.44.070 Purchase, possession, or consumption by minors prohibited.

A. Except in the case of liquor given or permitted to be given to a person under the age of 21 years by his or her parent or guardian for beverage or medicinal purposes, or administered to him or her by his or her physician or dentist for medicinal purposes, or used in connection with religious services, no person shall give or otherwise supply liquor to any person under the age of 21 years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control.

B. No person under the age of 21 years shall knowingly acquire or knowingly have in his or her possession or purchase, drink, or consume liquor, except in the case of liquor given or permitted to be given to such person as provided in subsection A of this section. ~~by his parent or guardian for beverage or medicinal purposes or administered to him by his physician or dentist for medicinal purposes, or used in connection with religious services.~~

C. No person under the age of 21 years shall attempt to obtain any liquor contrary to the provisions of this section.

D. It is unlawful for any person under the age of 21 years to be or remain in any public place after having consumed liquor as evidenced by:

1. The odor of intoxicants on the breath; or

2. Observations by the officer through other sense perception; except in the case of liquor given or permitted to be given to a person under the age of 21 years as provided in subsection A of this section. ~~by his parent or guardian for beverage or medicinal purposes, or administered to him by his physician or dentist for medicinal purposes, or used in connection with religious services.~~ "Public place or places" is defined in RCW 66.04.010(35). Any person under the age of 21 years who is found to have consumed liquor shall be presumed to have consumed the same within the city limits of the city of West Richland.

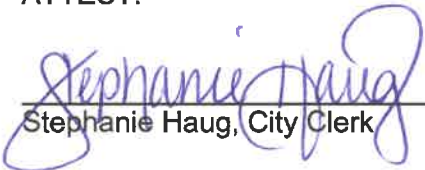
Section 3. This ordinance shall be in full force and effect five days following the date of its passage and publication in the official newspaper of the City.

PASSED by the City Council of the City of West Richland, Washington, this 6th day of April, 2021.



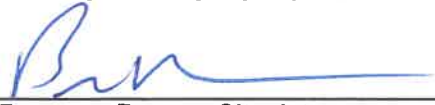
Brent Gerry, Mayor

ATTEST:



Stephanie Haug, City Clerk

APPROVED AS TO FORM



Bronson Brown, City Attorney