

ORDINANCE NO. 765

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DARRINGTON, SNOHOMISH COUNTY, WASHINGTON, AMENDING SECTION 9.04.600 and SECTION 9.04.610 OF THE TOWN OF DARRINGTON MUNICIPAL CADE AND ORDINANCE NO. 427 § 1 & 3, 1989

WHEREAS, in the Washington State Supreme Court ruling in State of Washington v. Blake, No. 96873-0 Filed February 25, 2021, the Court declared that laws that criminalize the unknowing possession of controlled substances are unconstitutional; and

WHEREAS, to comply with the Supreme Court's decision, the Town of Darrington Municipal Code 9.04.600 and 9.04.610 must be amended to criminalize only "knowing" possession of controlled substance and drug paraphernalia; and

WHEREAS, because no prosecutions will be pursued until the Code is amended, the Council finds there is an urgency to amend the Code in order to preserve the immediate public health, welfare and safety; and

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF DARRINGTON, WASHINGTON DO ORDAIN AS FOLLOWS:

Darrington Municipal Code Section 9.04.600 and 9.04.610 is hereby amended to read as follows:

9.04.600 - Possession of Controlled Substance

A. It shall be unlawful for any person to knowingly possess a controlled substance or to possess a controlled substance with intent to use it, 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 Chapter 69.50 RCW. However, the possession, by a person twenty-one years of age or older, of up to: one ounce of usable marijuana; sixteen ounces of marijuana-infused product in solid form; or seventy-two ounces of marijuana-infused product in liquid form is not a violation of this section.

B. This section shall not be applicable or enforced as to possession permitted by the statutes of the United States or of the state of Washington.

C. A person who is convicted for violating this section shall be punished by imprisonment for not less than twenty-four consecutive hours, and by a fine of not less than two hundred fifty dollars. On a second or subsequent conviction, the fine shall not be less than five hundred dollars. These fines shall be in addition to any other fine or penalty imposed. Unless the court finds that the imposition of the minimum imprisonment will pose a substantial risk to the defendant's physical or mental well-being or that local jail facilities are in an overcrowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowding exists, it shall sentence the defendant to a minimum of forty hours of community service. If a minimum term of imprisonment is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. Unless the court finds the person to be indigent, the minimum fine shall not be suspended or deferred.

9.04.610 - Drug Paraphernalia

A. The following statutes are incorporated by reference:

1. RCW 69.50.102 (drug paraphernalia—definitions);
2. RCW 69.50.412 (prohibited acts: E-penalties).

B. It is unlawful for any person knowingly to use, or to knowingly possess with intent to use, any item of drug paraphernalia 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 in violation of this act.

C. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to 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. Any person who violate this subsection is guilty of a misdemeanor.

D. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed to intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

E. A person who is convicted for violating this section shall be subject to the mandatory minimum penalties as specified in [Section 9.04.600\(C\)](#) of this chapter.

Passed and approved by the Town Council at a regular meeting this 14 day of April, 2021.



Daniel O. Rankin, Mayor

ATTEST:



Dianne Allen, Town Clerk/ Treasurer