

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILLCREEK,  
WASHINGTON, AMENDING CHAPTER xxxx OF THE MUNICIPAL CODE  
AND CRIMINALIZING THE POSSESSION OF A CONTROLLED SUBSTANCE  
WITHOUT A PRESCRIPTION.**

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WHEREAS, the use of controlled substances without a prescription and the supervision of a medical professional can result in physical injury or death; and

WHEREAS, the use of controlled substances without a prescription and the supervision of a medical professional often exacerbates mental health conditions; and

WHEREAS, using controlled substances can alter a person's brain or brain chemistry with negative health consequences; and

WHEREAS, persons using controlled substances can become addicted to such substances resulting in negative physical and mental health consequences and damage to family and personal relationships; and

WHEREAS, the use of controlled substances without a prescription or medical supervision is more likely to result in addiction; and

WHEREAS, the use of controlled substances without a prescription is positively correlated with criminal behavior; and

WHEREAS, the City has taken steps to address these problems through teaming police officers with alternative programs, mental health professionals and providers through the court's Mental Health Alternatives Programs; 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's constitution; and

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WHEREAS, the Supreme Court's ruling has the effect of eliminating any criminal penalties for the possession of a controlled substance without a prescription; and

WHEREAS, the Supreme Court's ruling also eliminates the authority of police officers to arrest persons possessing a controlled substance without a prescription or obtaining search warrants to search for controlled substances possessed without a prescription; and

WHEREAS, the lack of criminal penalties for the possession of controlled substances without a prescription will immediately result in an increase in the negative health and safety consequences associated with the use of controlled substances without a prescription; and

WHEREAS, the lack of enforcement authority of the police will interfere with the City's initiatives to address addiction and criminal activity associated with the use of controlled substances without a prescription by eliminating incentives for individuals to enter treatment or obtain necessary social services; and

WHEREAS, the effect of eliminating criminal penalties and police authority in regard to the possession and use of controlled substances without a prescription will have an immediate, direct, and negative impact on the health, safety, and welfare of the City's inhabitants; and

WHEREAS, this is a public emergency ordinance necessary for the protection of public health and public safety and should be effective upon adoption.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILLCREEK,  
WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The Recitals set forth above are adopted as findings of fact in support of this emergency ordinance.

SECTION 2. Chapter 6.27 of the municipal code is amended as set forth in Exhibit A.

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SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

SECTION 4. Upon approval by the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including scrivener’s errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections.

SECTION 5. Effective Date. This ordinance is necessary for the protection of public health and public safety and is effective upon adoption.

PASSED by the City Council and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, FINALLY PASSED AND RATIFIED by the City Council of the City of Mill Creek this \_\_\_\_ day of \_\_\_\_\_, 2021 by a vote of \_\_\_\_\_ for, \_\_\_\_\_ against, and \_\_\_\_\_ abstaining.

APPROVED:

\_\_\_\_\_  
BRIAN HOLTZCLAW  
MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
NAOMI FAY  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
GRANT DEGGINGER  
CITY ATTORNEY

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_  
ORDINANCE NO.: \_\_\_\_\_