

(1) It is 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. (2) Any person who violates this section is guilty of a gross misdemeanor punishable by up to 364 days in jail and a \$5,000 fine.

BUDGET IMPACT:

The budget impact is difficult to estimate:

The City is responsible for the cost of prosecution and incarceration of misdemeanor offenses. Felony offences are prosecuted by the County. Therefore, there will be increased cost to the City in enforcing the misdemeanor offense^[1].

ATTACHMENTS:

- Ordinance 1116
- 2020 Arrests

ORDINANCE NO. 1116

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON, AMENDING CHAPTER 9.40 OF THE LAKE STEVENS MUNICIPAL CODE (“LSMC”) AND CRIMINALIZING THE KNOWING POSSESSION OF A CONTROLLED SUBSTANCE WITHOUT A PRESCRIPTION; ADOPTING FINDINGS OF FACT AND DECLARING AN EMERGENCY; AMENDING SECTION 9.40.020 LSMC; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE, AND FOR PUBLICATION BY ORDINANCE TITLE.

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 social workers and mental health professionals and the municipal court's Mental Health Alternatives Program; and

WHEREAS, public health officials in Snohomish County have linked an increase in opioid deaths and the use of naloxone to prevent overdoses with the continuing COVID-19 pandemic; 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; and

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 LAKE STEVENS, 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. Section 9.40.020 is hereby amended to read as follows:

~~9.40.020 Drug paraphernalia~~ Controlled Substance--Possession prohibited.

- (1) . It is 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. (2) Any person who violates this section is guilty of a gross misdemeanor punishable by up to 364 days in jail and a \$5,000 fine.

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. Effective Date/Publication. This ordinance is necessary for the immediate protection of the health and public safety due and is effective upon adoption. Publication shall be by ordinance title only.

PASSED by the City Council and APPROVED by the Mayor this _____ day of
_____, 2021.

CITY OF LAKE STEVENS

By _____
Brett Gailey, MAYOR

Attest:

By _____
Kelly Chelin, CITY CLERK

Approved as to form:

By _____
Greg A. Rubstello, CITY ATTORNEY

Date of publication: _____

Effective Date: _____