

**ORDINANCE NO. 2023-04-009**

**AN ORDINANCE OF THE CITY OF BELLINGHAM AMENDING BELLINGHAM MUNICIPAL CODE CHAPTER 10.08 REGARDING THE USE OF CONTROLLED SUBSTANCES IN PUBLIC PLACES.**

**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 City has taken steps to address these issues through various diversion and alternative response programs including the Law Enforcement Assisted Diversion ("LEAD"), Ground-Level Response and Coordinated Engagement (GRACE), the Alternative Response Team ("ART") and Mental Health Court, which are aimed at connecting those in need or crisis with services and support. and

**WHEREAS**, the use of controlled substances in public increases public disorder and the negative effects of using controlled substances without a prescription; and

**WHEREAS**, the use of controlled substances in public negatively affects children and youth and normalizes the use of controlled substances without a prescription; and

**WHEREAS**, the use of alcohol and marijuana by persons of legal age is prohibited in public; and

**WHEREAS**, prohibiting the use of controlled substances in public will enhance public health and safety; and

**WHEREAS**, traditional approaches to law enforcement and the criminal legal system are being adapted and revised to address underlying and associated mental health and substance use disorders that may contribute to public drug use, including the adoption of pre-trial diversion programs authorized under RCW 71.24 and community courts as authorized under RCW 2.30, as examples;

**NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

**SECTION 1.** BMC Section 10.08.010 is amended to add the following definitions:

"Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in RCW 69.50.204, RCW 60.50.206, RCW 69.50.208, RCW 69.50.210, and RCW 69.50.212, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

"Use" means any effort taken in furtherance of an attempt to inject, ingest, inhale or otherwise introduce a controlled substance into the human body.

**SECTION 2.** A new section BMC 10.08.110 is added to the Bellingham Municipal Code as set forth below:

**10.08.110 Use of a Controlled Substance in a Public Place.**

1. It is unlawful for any person to knowingly use a controlled substance in a public place unless the controlled substance has been lawfully prescribed to the person using it.
2. Use of a controlled substance in a public place is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.
3. In lieu of jail booking and referral of charges to the prosecutor, law enforcement is encouraged to offer violators a referral to substance abuse treatment services in the community.
4. This section will sunset on April 25, 2025.

**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 shall become effective fifteen days after the third and final reading of the ordinance.

**PASSED** by the Council this 10th day of April, 2023.

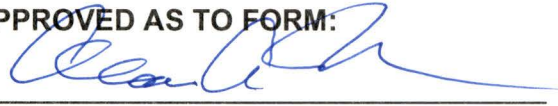
  
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Council President

**APPROVED** by me this 21<sup>st</sup> day of April, 2023.

  
\_\_\_\_\_  
Mayor

**ATTEST:**   
\_\_\_\_\_  
Finance Director

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Office of the City Attorney

Published:

April 14, 2023