

## ORDINANCE NO. 2023-

**AN ORDINANCE** concerning Title 6, Public Safety and Morals; amending the City of Yakima Municipal Code Chapter 6.08 Drug Related Offenses to adopt provisions of SB 5536 (“*Blake Fix*”) which regulates possession of counterfeit, controlled, and legend drugs, drug paraphernalia, and drug use in public, repealing YMC 6.08.060 (Loitering for purposes for drug activity), and RCW 69.50.425, RCW 69.41.070, YMC 6.08.030, YMC 6.08.210, and YMC 6.08.300 as housekeeping measures.

**WHEREAS**, In *State v. Blake*, 197 Wn.2d 170 (2021), the Washington State Supreme Court found former RCW 69.50.4013 which made it a strict liability offense to possess a controlled substance in violation of the Uniform Controlled Substance Act, unconstitutional because the statute did not require proof that the offender knowingly possessed a controlled substance; and

**WHEREAS**, the Legislature adopted RCW 69.50.4013 during the 2021 legislative session, which provided a temporary correction to the law. However, before an arrest could be made, the 2021 legislation required officers to inform individuals on their first two violations that they could voluntarily enter treatment, but the legislation created no incentive for an offender to choose treatment. The 2021 legislation will sunset on July 1, 2023; and

**WHEREAS**, the 2023 “*Blake Fix*”, SB 5536, prohibits the unlawful possession of counterfeit, controlled, and legend substances, and drug paraphernalia, prohibits public use of counterfeit, controlled, and legend drugs, and encourages the use of pretrial diversion programs to allow defendants to meaningfully engage in treatment programs; and

**WHEREAS**, Governor Inslee signed SB 5536 (*Blake Fix*) into law and portions of the law take affect on July 1, 2023; and

**WHEREAS**, SB 5536 preempts local regulation and repeals local laws and ordinances that are inconsistent with the of state law; and

**WHEREAS**, the Yakima City Council believes it is in the best interest of the citizens of the City of Yakima to adopt provisions of SB 5536 and allow local jurisdiction matters to be prosecuted in the Municipal Court; now, therefore,

**BE IT ORDAINED BY THE CITY OF YAKIMA:**

**Section 1.** Chapter 6.08 is hereby amended to read as follows:

### **Chapter 6.08 DRUG-RELATED OFFENSES**

Sections:

<b>6.08.015</b>	<b>Statutes adopted.</b>
<b>6.08.040</b>	<b>Severability.</b>
<b>6.08.015</b>	<b>Statutes adopted.</b>

The following Revised Code of Washington (RCW) sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW

69.41.010 Definitions - Legend Drugs  
69.41.030 Possession of Legend Drugs without Prescription or Order  
9.47A.010 Definition.  
9.47A.020 Unlawful inhalation—Exception.  
9.47A.030 Possession of certain substances prohibited, when.  
9.47A.040 Sale of certain substances prohibited, when.  
9.47A.050 Penalty.  
69.50.101 Definitions.  
69.50.102 Definitions—Drug paraphernalia.  
69.50.4011 Counterfeit Substances – Penalty.  
69.50.4013 Possession of Controlled Substances – Penalty – Possession of usable Cannabis, Cannabis Concentrate, or Cannabis Infused Product - Delivery  
69.50.4014 Possession of forty grams or less of marijuana—Penalty.  
69.50.412 Prohibited acts.  
69.50.4121 Drug paraphernalia—Selling or giving—Penalty.  
69.50.445 Opening package of or consuming marijuana, useable marijuana, or marijuana-infused product in view of general public—Penalty.  
69.51A.060 Use or Display of Medical Marijuana

(Ord. 2015-021 § 23, 2015: Ord. 2012-50 § 2, 2012).

**6.08.040 Severability.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect within the invalid provision or application, and to this end the provisions of this chapter are severable. (Ord. 2477 § 1 (part), 1980).

**Section 2.** This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

**PASSED BY THE CITY COUNCIL**, signed and approved this 20<sup>th</sup> day of June, 2023.

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Janice Deccio, Mayor

ATTEST:

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Rosalinda Ibarra, City Clerk

Publication Date:

Effective Date: