

ORDINANCE 1534

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, ADOPTING A NEW CHAPTER 9.15 TO THE GIG HARBOR MUNICIPAL CODE TO PROHIBIT KNOWINGLY OR RECKLESSLY PERMITTING A CHILD OR DEPENDENT PERSON TO HAVE CONTACT WITH A CONTROLLED SUBSTANCE OTHER THAN CANNABIS; ESTABLISHING A PENALTY FOR A VIOLATION OF THIS SECTION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the misuse of controlled substances in Washington State is a growing public health crisis, resulting in negative health outcomes such as addictions, overdoses, and deaths for far too many community members; and

WHEREAS, drug overdose and drug poisoning moved from the sixth leading cause of death among children aged 1-19 years of age in the United States in 2019 to third in 2020, which included a 110.6 percent increase in unintentional poisonings; and

WHEREAS, drug poisonings in Washington have increased steadily since 2014, increasing 30 percent from 2019 to 2020, another 30 percent from 2020 to 2021, and 17 percent from 2021 to 2022 according to the University of Washington Addictions, Drug, and Alcohol Institute; and

WHEREAS, opioid-related overdose is the most common cause of accidental death in Pierce County, outnumbering motor vehicle collisions and firearm deaths according to the Tacoma-Pierce County Health Department; and

WHEREAS, between 2020 to 2022, Pierce County experienced 32.53 deaths per 100,000 residents due to overdose, a higher rate than the state average of 27.98 for the same period; and

WHEREAS, these risks are particularly high for children and other dependent persons who may live in close proximity to and come in contact with controlled substances through no fault of their own; and

WHEREAS, in children nationwide aged 17 or younger lived in households with at least one parent who had a past substance use disorder according to a 2014 report by the Substance Abuse and Mental Health Services Administration (SAMHSA); and

WHEREAS, fentanyl is often up to 50 times more potent than heroin and other synthetic opioids such as nitazenes and carfentanil; and

WHEREAS, the ease of illicit manufacture and potency of synthetic opioids has driven down illegal drug prices and caused synthetic opioids to be mixed with street drugs such as heroin, cocaine, and methamphetamine; and

WHEREAS, the Washington State Office of the Family and Children's Ombuds Child Fatalities and Near Fatalities in Washington State September 2023 report states that over a quarter of the child fatalities and more than half of the child near fatalities involved accidental ingestions and overdoses in 2022; and

WHEREAS, the Washington Poison Center had 116 cases in 2020 which involved the accidental exposure of children ages 0-5 years to opioids and opiates and it is believed many more cases go unreported; and

WHEREAS, the Washington State Department of Health reports youth (ages 0-17) died from drug overdoses at the rate of 148 youth in 2016, 160 youth in 2017, 159 youth in 2018, 149 youth in 2019, 247 youth in 2020, 340 youth in 2021, 346 youth in 2022, and 378 youth in 2023; and

WHEREAS, exposure to controlled substances is a threat to the health and safety of all Gig Harbor residents, especially so for the children and dependent persons who are in close proximity to individuals who use illegal substances; and

WHEREAS, sufficient mechanisms must be in place to hold people accountable when children and dependent persons are exposed to life-threatening harms; and

WHEREAS, the Gig Harbor City Council encourages the State Legislature to consider amending RCW 9A.42.100, "Endangerment with a Controlled Substance," to include all controlled substances as a Class B felony; in the interim, the City Council finds it necessary and appropriate to take action in its capacity to establish a Municipal Code to protect public health and safety, and desires to take immediate steps to deter the endangerment of children and other vulnerable populations caused by the dangers of exposure to controlled substance;

NOW THEREFORE, the City Council of the City of Gig Harbor, Washington, do ordain as follows:

Section 1. Chapter 9.15 of the Gig Harbor Municipal Code is hereby adopted to read as follows:

Chapter 9.15 ENDANGERMENT WITH A CONTROLLED SUBSTANCE

9.15.010 Definitions.

In this chapter, unless a different meaning plainly is required, the definitions contained in this section shall apply:

A. "Cannabis" shall mean the same as the term is defined in RCW 69.50.101.

- B. "Child" shall mean the same as the term is defined in RCW 9A.42.010.
- C. "Controlled substance" shall mean the same as the term is defined in RCW 69.50.101.
- D. "Dependent person" shall mean the same as the term is defined in RCW 9A.42.010.

9.15.020 Endangerment with a Controlled Substance.

- A. A person is guilty of the crime of endangerment with a controlled substance if the person knowingly or recklessly permits a child or dependent person to ingest, inhale, absorb, or have contact with a controlled substance other than cannabis, unless the controlled 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.
- B. Administering or providing a controlled substance to a child or dependent person in the course of delivering health care services is not a violation of this Section.

9.15.030 Penalty.

Unless otherwise specified, any person who violates this Chapter is guilty of a gross misdemeanor punishable by up to 364 days in jail and a \$5,000 fine. The Prosecuting Attorney is encouraged to consider referring such cases for assessment, treatment, and other services including referral to alternative resolution courts following the formal filing of charges.

9.15.040 Preemption.

In the event the Washington State Legislature passes a law preempting this Chapter, this Chapter shall cease to have effect on the same date the statute comes into effect. Any violation of this Chapter that occurs prior to the preempting statute coming into effect may be prosecuted and punished pursuant to this Chapter.

Section 2. Severability. If any section, sentence, clause, or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 3. Correction of Errors. The city clerk and codifiers of the ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

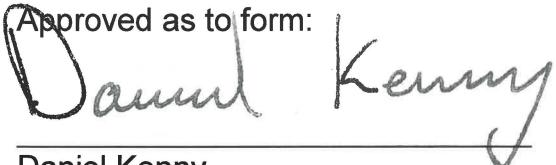
Section 4. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage and publication of an approved summary consisting of the title.

ADOPTED by the Council of the City of Gig Harbor at a regular meeting thereof,
held this 25th day of November, 2024.

Mary K. Barber

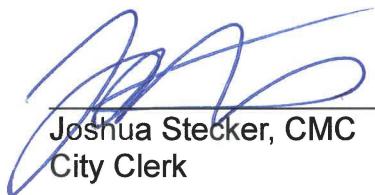
Mary K. Barber
Mayor

Approved as to form:



Daniel Kenny
City Attorney

Attest:



Joshua Stecker, CMC
City Clerk