

CITY OF KENNEWICK
ORDINANCE NO. 5893

AN ORDINANCE AMENDING SECTIONS 9.32.010 AND 9.32.020 OF THE
KENNEWICK MUNICIPAL CODE AFORESAID RELATING TO DRUGS
AND DRUG PARAPHERNALIA

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS
FOLLOWS:

Section 1. Section 9.32.010 of the Kennewick Municipal Code, be, and the same hereby is,
amended to read as follows:

9.32.010: - Definitions.

As used in this Chapter:

- (1) *Administer* means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner, or
 - (b) The patient or research subject at the direction and in the presence of the practitioner.
- (2) *Controlled Substance* means a drug, substance, or immediate precursor in Schedules I through V of Article II, RCW 69.50.
- (3) *Counterfeit Substance* means a controlled substance of which, or the container of, labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
- (4) *Deliver* or *Delivery* means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.
- (5) *Drug* means:
 - (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;
 - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (d) Substances intended for use as a component of any article specified in components, parts, or accessories.
- (6) *Drug Paraphernalia* means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing,

harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, the possession of which is in violation of RCW 69.50. It includes, but is not limited to:

- (a) Kits used, intended to use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- (h) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (i) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (k) Hypodermic syringes, needles and other objects used, intended to use, or designed for use in parenterally injecting controlled substances into the human body;
- (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing a controlled substance into the human body, the possession of which is a violation of this Chapter or RCW 69.50, such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (ii) Water pipes;
 - (iii) Carburetion tubes and devices;
 - (iv) Smoking and carburetion masks;
 - (v) Miniature cocaine spoons, and cocaine vials;
 - (vi) Chamber pipes;

- (vii) Carburetor pipes;
 - (viii) Electric pipes;
 - (ix) Air-driven pipes;
 - (x) Chillums;
 - (xi) Bongs;
 - (xii) Ice pipes or chillers.
- (m) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors and subject to applicable rules or evidence, the following:
- (i) Statements by an owner or by anyone in control of the object concerning its use;
 - (ii) Prior course of dealing or habit of the owner or person in control of the object;
 - (iii) The proximity of the object, in time and space, to a direct violation of this Chapter or RCW 69.50;
 - (iv) The proximity of the object to controlled substances;
 - (v) The existence of any residue of controlled substances on the object;
 - (vi) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this Chapter or RCW 69.50; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
 - (vii) Instructions, oral or written, provided with the object concerning its use;
 - (viii) Descriptive materials accompanying the object which explain or depict its use;
 - (ix) National and local advertising concerning its use;
 - (x) The manner in which the object is displayed for sale;
 - (xi) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a license distributor or dealer of tobacco products;
 - (xii) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
 - (xiii) The existence and scope of legitimate uses for the object in the community;
 - (xiv) Expert testimony concerning its use.
- (7) *Immediate Precursor* means a substance which the State Board of Pharmacy has found to be and rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

- (8) *Manufacturer* means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:
- (a) By a practitioner as an incident to his administering or dispensing of an controlled substance in the course of his professional practice, or
 - (b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.
- (9) *Marijuana* means all parts of the plant of the genus *Cannabis* L., whether growing or not, with a THC concentration greater than three-tenths percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stocks of the plant, fiber produced from the stocks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stocks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- (10) *Marijuana Concentrates* means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* with a THC concentration greater than ten percent.
- (11) *Marijuana Products* means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.
- (12) *Marijuana-Infused Products* means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in this section, and have a THC concentration no greater than ten percent. The term does not include either marijuana or marijuana concentrates.
- (13) *Person* means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
- (14) *Production* includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(Ord. 5893 Sec. 1, 2021; Ord. 5475 Sec. 1, 2012; Ord. 5336 Sec. 1, 2011; Ord. 2504 Sec. 1 (part), 1980)

Section 2. Section 9.32.020 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

9.32.020: - Prohibited Acts.

- (1) It is unlawful for a person under the age of 21 to possess marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration, unless the same

was obtained directly from, or pursuant to, a valid prescription or order from a medical practitioner while acting in the course of his medical practice, or except as otherwise authorized by the laws of the State of Washington. Unlawful possession of marijuana by a person under the age of 21 is a misdemeanor.

- (2) It is unlawful for any person to intentionally smell or inhale the fumes of any type of substance containing a solvent having the property of releasing toxic vapors or fumes as defined in RCW 9.47A.010, which is hereby incorporated by reference as it is now or hereafter amended, or to induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses of the nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes. This subsection does not apply to the inhalation of any anesthesia for medical or dental purposes. Unlawful inhalation under this subsection is a misdemeanor.
- (3) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise induce into the human body a controlled substance the possession of which is in violation of RCW 69.50. Violation of this subsection is a misdemeanor.
- (4) It is unlawful for any person to deliver, possess with the intent to deliver, or manufacture with the intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, the possession of which is in violation of RCW 69.50. Violation of this subsection is a misdemeanor.
- (5) Except for violations of KMC 9.32.020(6), any person who violates any provision of this Chapter in a school or on a school bus, or within 1,000 feet of a school bus route stop designated by the Kennewick or Richland School Districts, or within 1,000 feet of the perimeter of Kennewick or Richland School District grounds, in a public park, in a public housing project designated by the City Council as a drug free zone, or on a public transit vehicle or in a public transit stop shelter, shall be punished by a fine of not less than \$500.00 and ten days imprisonment, and no portion of such fine or imprisonment shall be suspended.
- (6) It is unlawful to open a package containing marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, or consume marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates in view of the general public. A person who violates this section is guilty of a class 3 civil infraction under KMC 1.12.030(3) and Chapter 7.80 RCW, not including statutory assessments.
- (7) The possession, by a person 21 years of age or older of useable marijuana or marijuana-infused products in amounts that do not exceed the following:
 - (a) One ounce of useable marijuana;
 - (b) Sixteen ounces of marijuana-infused product in solid form; or

(c) Seventy-two ounces of marijuana-infused product in liquid form;
is not a violation of this section, this chapter, or any other provision of the
Kennewick Municipal Code.

- (8) It is unlawful for a person to possess useable marijuana in excess of one ounce, but less than 40 grams, except as otherwise authorized by the laws of the State of Washington. Unlawful possession of marijuana in excess of one ounce, but less than 40 grams, is a misdemeanor.

(Ord. 5893 Sec. 2, 2021; Ord. 5510 Sec. 1, 2013; Ord. 5475 Sec. 2, 2012; Ord. 5336 Sec. 2, 2011; Ord. 5169 Sec. 1, 2007; Ord. 3955 Sec. 1, 2001; Ord. 3924 Sec. 1, 2000; Ord. 3881 Sec. 1, 1999; Ord. 3790 Sec. 1, 1998; Ord. 3433 Sec. 1, 1993; Ord. 3060 Sec. 1, 1987; Ord. 2504 Sec. 1 (part), 1980; Ord. 2089 Sec. 2 (part), 1977)

Section 3. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 19th day of January, 2021, and signed in authentication of its passage this 19th day of January, 2021.

Attest:

DON BRITAIN, Mayor

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5893 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this 20th day of
January, 2021.

Approved as to Form:

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION _____