

ORDINANCE NO. 1481

AN ORDINANCE AMENDING CHAPTER 14 OF THE JENKS CITY CODE "OFFENSES" BY REPLACING SECTION 14-2-21 "MARIJUANA: USE, SALE, ETC." IN ITS ENTIRETY WITH NEW LANGUAGE TO CONFORM TO STATE LAW AND TO ADD AN OFFENSE FOR ILLEGAL POSSESSION OF OTHER CONTROLLED DRUGS; AMENDING SECTION 14-8-1 "PENALTY" TO CORRECT INCARCERATION TIME FROM THIRTY DAYS TO TEN DAYS AND TO REDEFINE PENALTY FOR POSSESSING MEDICAL MARIJUANA WITHOUT A LICENSE BY A PERSON WHO CAN STATE A MEDICAL CONDITION TO CONFORM TO STATE LAW; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT HERewith; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JENKS, OKLAHOMA:

SECTION I. Section 14-2-21 shall be amended to read as follows:

"§14-2-21. Possession of Marijuana and Controlled Dangerous Substances

(A) Definitions

- (1) "Controlled dangerous drug" means a drug, substance or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act or any drug, substance or immediate precursor listed either temporarily or permanently as a federally controlled substance. Any conflict between state and federal law with regard to the particular schedule in which a substance is listed shall be resolved in favor of state law;
- (2) "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 in violation of the state Uniform Controlled Dangerous Substances Act in the Oklahoma Statutes, hereinafter referred to as "the act", and adopted by reference herein. It includes, but is not limited to those equipment, products and materials specified in Section 2-101.1 of Title 63 of the Oklahoma Statutes, or as that section may be renumbered in the future, on drug paraphernalia;
- (3) "Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or resin, but shall not include:
 - a. the mature stalks of such plant or fiber produced from such stalks,

- b. oil or cake made from the seeds of such plant, including cannabidiol derived from the seeds of the marijuana plant,
 - c. any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks, fiber, oil or cake,
 - d. the sterilized seed of such plant which is incapable of germination,
 - e. for any person participating in a clinical trial to administer cannabidiol for the treatment of severe forms of epilepsy pursuant to 63 O.S. § 2-802, a drug or substance approved by the federal Food and Drug Administration for use by those participants,
 - f. for any person or the parents, legal guardians or caretakers of the person who have received a written certification from a physician licensed in this state that the person has been diagnosed by a physician as having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as Severe Myoclonic Epilepsy of Infancy, or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, spasticity due to multiple sclerosis or due to paraplegia, intractable nausea and vomiting, appetite stimulation with chronic wasting diseases, the substance cannabidiol, a nonpsychoactive cannabinoid, found in the plant Cannabis sativa L. or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid,
 - g. any federal Food and Drug Administration-approved cannabidiol drug or substance, or
 - h. industrial hemp, from the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis which shall only be grown pursuant to the Oklahoma Industrial Hemp Agricultural Pilot Program and may be shipped to Oklahoma pursuant to the provisions of subparagraph e or f of this paragraph;
- (4) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity; and
- (5) "Practitioner" means:
- a.
 - i. a medical doctor or osteopathic physician,
 - ii. a dentist,
 - iii. a podiatrist,
 - iv. an optometrist,
 - v. a veterinarian,
 - vi. a physician assistant under the supervision of a licensed medical doctor or osteopathic physician,
 - vii. a scientific investigator, or
 - viii. any other person licensed, registered or otherwise permitted to prescribe, distribute, dispense, conduct research with respect to,

use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state, or

- b. a pharmacy, hospital, laboratory or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, use for scientific purposes or administer a controlled dangerous substance in the course of professional practice or research in this state.

(B) It is unlawful and an offense for any person to be in possession of marijuana in the city, except as permitted by state law for persons holding a current and valid permit or license issued by the State of Oklahoma for such possession.

(C) It is unlawful for any person knowingly or intentionally to possess a controlled dangerous drug, other than marijuana, that is listed on Schedule I through V of the Controlled Dangerous Substance Act unless the substance was obtained pursuant to a valid prescription or order from a practitioner while acting in the course of his or her professional practice.

(D) It is unlawful and an offense for any person to be in possession of drug paraphernalia in the city, except:

- (1) As permitted by state law for those persons holding an unrevoked license in the professions of podiatry, dentistry, medicine, nursing, optometry, osteopathy, veterinary medicine or pharmacy;
- (2) As permitted by state law for those persons holding a current and valid permit or license issued by the State of Oklahoma for the possession of medical marijuana; or
- (3) As otherwise specifically permitted by state law pursuant to the provisions of 63 O.S. § 420 et seq.

State Law reference—Uniform Controlled Dangerous Substances Act, 63 O.S. § 2-101 et seq.; 63 O.S. § 420 et seq.”

SECTION II. Section 14-8-1 shall be amended to replace “or” to “of” in the fourth line; change the reference to the title of §14-2-21 from “(Marijuana; use, sale, etc.)” to “(Possession of Marijuana and Controlled Dangerous Substances)”; change “thirty (30) days incarceration” to “ten (10) days incarceration”; add “and except that under §14-2-21 possession of up to one and one-half (1.5) ounces of marijuana by persons who can state a medical condition, but not in possession of a state issued medical marijuana license, shall constitute an offense with a fine or deferral fee in lieu of a fine not to exceed Four Hundred Dollars (\$400.00), plus court costs” at the end of the section.

SECTION III. If any section, sentence, clause or phrase of this ordinance or any part thereof is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance or any part thereof.

SECTION III. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby expressly repealed.

SECTION IV. Since the immediate operation of the provisions of the Ordinance is necessary for the preservation of public health, welfare and safety, an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage by the City Council.

Approved this 4th day of March 2019.

CITY OF JENKS, OKLAHOMA

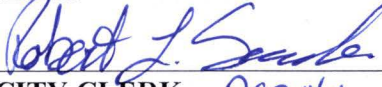

MAYOR

Emergency Clause approved separately this 4th day of March 2019.

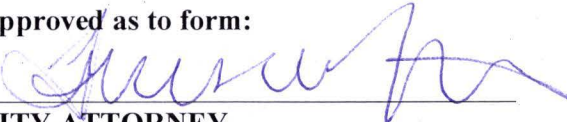
CITY OF JENKS, OKLAHOMA


MAYOR

Attest:


CITY CLERK - Deputy

Approved as to form:


CITY ATTORNEY

