

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE repealing sections 5510., 5520., 5522., 5533., and 5548., Jackson County Code, 1984, relating to petty offenses, and enacting, in lieu thereof, five new sections relating to the same subject.

ORDINANCE NO. 5847, May 6, 2024

INTRODUCED BY Manuel Abarca, IV, County Legislator

BE IT ORDAINED by the County Legislature of Jackson County, Missouri as follows:

Section A. Enacting Clause. Sections 5510., 5520., 5522., 5533., and 5548., Jackson County Code, 1984, are hereby repealed and five new sections enacted in lieu thereof, to be known as sections 5510., 5520., 5522., 5533., and 5548., to read as follows:

DEFINITIONS

5510. Definitions.

As used in this chapter, the following words and phrases are defined as follows:

Administer means to apply a drug or controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

1. A practitioner (or, in his/her presence, by an authorized agent), or
2. The patient or research subject at the direction and in the presence of the practitioner.

Controlled Substance means drug, substance, or immediate precursor used in schedules I through V of the Uniform Controlled Substances Act chapter 195, RSMo., or chapter 579, RSMo., including, but not limited to:

1. Cocaine and its derivatives;
2. Opiates and opium derivatives such as heroin, codeine, pethidine, and morphine;
3. Hallucinogenic substances including lysergic acid diethylamide, [marijuana (Cannabis sativa L.), including seeds of mature plants,] mescaline, psilocybin, and various types of methoxyamphetamines;
4. Stimulants such as amphetamines and methamphetamines; and,
5. Barbiturates and other depressants such as amobarbital, secobarbital, pentobarbital, phenobarbital, methaqualone, phencyclidine, and diazepam.

Deliver or delivery means the actual, constructive, or attempted transfer from one person to another of drug paraphernalia or of a controlled substance, or an imitation controlled substance, whether or not there is an agency relationship, and includes sale.

Director means the Director of Public Works of Jackson County or the Director's designee.

Dispense means to deliver a drug or controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for such delivery.

Distribute means to deliver other than by administering or dispensing a drug or controlled substance.

Drug means:

1. A substance recognized as a drug in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States or Official National Formulary, or any supplement to either of them;
2. A substance intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;
3. A substance other than food, intended to [effect] affect the structure or any function of the bodies of humans or animals; and,
4. A substance intended for use as a component of any chapter specified in this definition. Drug does not include devices or their components, parts, or accessories.

Drug Paraphernalia means all equipment, products, substances, and materials of any kind which are used or intended for use, or designed for the use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance or imitation controlled substance in violation of chapter 195, RSMo. Drug Paraphernalia includes, but is not limited to:

1. Kits used, intended for 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;
2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or imitation controlled substances;
3. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance or an imitation controlled substances;
4. Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances or imitation controlled substances;
5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances or imitation controlled substances;
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dex[s]trose and lactose, used, intended for use, or designed for the use in cutting controlled substances or imitation controlled substances;
- [7. 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.]

7 [8]. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances or imitation controlled substances;

8 [9]. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances or imitation controlled substances;

9 [10]. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances or imitation controlled substances;

10[1]. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances or imitation controlled substances into the human body;

11[2]. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing [marijuana,] cocaine, heroin, barbiturates, methamphetamine or other amphetamine [hashish, or hashish oil] into the human body such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, [hashish heads,] or punctured metal bowls;

[b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking or carburetion masks;

e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;]

b[f]. Miniature cocaine spoons and cocaine vials;

[g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs; and

m. Ice pipes or chillers;]

c. Glass or metal bowl style pipes commonly used for the inhalation of methamphetamine or other amphetamines;

13. Substances used, intended for use, or designed for use in the manufacture of a controlled substance.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance or imitation controlled substance;

3. The proximity of the object, in time and space, to a direct violation of any provision of this chapter.

4. The proximity of the object to controlled substances or imitation controlled substances;
5. The existence of any residue of controlled substances or imitation controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to a person whom she/he knows, or should reasonably know, intends to use the object to facilitate a violation of any provision of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of any provision of this chapter shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. 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 licensed distributor or dealer of tobacco products.
12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use; and

15. The quantity, form, or packaging of the product, substance, or material in relation to the quantity, form, or packaging associated with any legitimate use for the product, substance, or material.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

Emergency Work means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

Imitation drug or imitation controlled substance means a substance that is not a drug or a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representation made, would lead a reasonable person to believe that the substance is a drug or a controlled substance. In determining whether the substance is an imitation drug or an imitation controlled substance, the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

1. Whether the substance was approved by the U.S. Food and Drug Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in the U.S. Food and Drug Administration approved package, with the U.S. Food and Drug Administration approved labeling information;
2. Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

3. Whether the substance is packaged in a manner normally used for illicit controlled substances;
4. Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;
5. The proximity of the substances to controlled substances;
6. Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include a placebo or registered investigation drug which was manufactured, distributed, possessed, or delivered in the ordinary course of professional practice or research.

License or licensed means persons required to obtain annual registration as issued by the Missouri State Division of Health as provided by in section 195.030, RSMo.

Manufacture means the production, preparation, propagation, compounding, or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance either directly or 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. Manufacture does not include the preparation or compounding of a controlled substance or an imitation controlled substance by an

individual for personal use or the preparation, compounding, packaging, or labeling of a narcotic or dangerous drug:

1. By a practitioner as an incident to administering or dispensing of a controlled substance in the course of his/her professional practice; or
2. By a practitioner or by an authorized agent under his/her supervision for the purpose of, or as an incident to research, teaching, or chemical analysis or by a pharmacist and not for sale.

[Marijuana means all parts of the plant genus *Cannabis*, in any species or form thereof, including, but not limited to *Cannabis sativa* L., *Cannabis indica*, *Cannabis americana*, *Cannabis ruderalis*, and *Cannabis gigantea*, whether growing or not, 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. Marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.]

Narcotic drug means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical analysis:

1. Opium, opiate, and any derivative of opium or opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the

isomers, esters, ethers, and salts is possible within the specific chemical designation.

Narcotic drug does not include the isoquinoline alkaloids of opium;

2. Cocaine or any salt, isomer, or salt of isomer thereof;
3. Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof; and
4. Any compound, mixture, or preparation containing any substance referred to in subsections 1 and 2 of this definition.

Noise Sensitive Area includes, but is not limited to, a posted area where a school, hospital, nursing home, church, court, public library, or similar institution is located.

Person means any individual, firm, association, partnership, joint venture, or corporation.

Pharmacist means a licensed pharmacist as defined by the laws of the State of Missouri, and where the context so requires, the owner of a store or other place of business where controlled substances are compounded or dispensed by a licensed pharmacist. Nothing in this chapter shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege that is not granted by the pharmacy laws of the State of Missouri.

Practitioner means a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered, or otherwise permitted by the State of Missouri to distribute, dispense, conduct research with respect to, administer, or to use in teaching or chemical analysis, a controlled substance in the course of professional practice and research in the State of Missouri, or a pharmacy,

hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research.

Production includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance.

Prescription means a written order, and in cases of emergency, a telephone order, issued by a practitioner in good faith in the course of his/her professional practice to a pharmacist for a drug for a particular patient, which specifies the date of its issue, the name and address of the patient (and, if such drug is prescribed for an animal, the species of such animal), the name and quantity of the drug prescribed, the directions for use of such drug, and the signature of such practitioner.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

Public Space means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

Residential Area means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of Jackson County's Unified Development Code, chapter 240 of this Code.

Sheriff means the Sheriff of Jackson County or the Sheriff's designee.

Warehouseman means a person who, in the usual course of business, stores drugs for others lawfully entitled to possess them and who has no control over the disposition of such drugs except for the purpose of such storage.

Wholesaler means a person who supplies drug paraphernalia, controlled substances, or imitation controlled substances not produced or prepared by that person, on official written orders, but not on prescription.

PENALTY

5520. Penalty, Violation of Petty Offense Code.

Any person who violates the provisions of § 5534.4 of this chapter shall on conviction be subject to punishment pursuant to section 571.107.2, RSMo. Any person who violates the provisions of section 5567. of this chapter shall on conviction be subject to punishment pursuant to section 5567.2. [Any person who violates the provisions of section 5568. of this chapter by possessing not more than ten grams of marijuana or any synthetic cannabinoid shall on conviction be subject to punishment by a fine of not more than five hundred dollars (\$500).] Any person who violates any of the remaining provisions of this chapter shall on conviction be subject to punishment by a fine of not more than one thousand dollars (\$1000) or by imprisonment in the county jail for a term not exceeding one (1) year, or by both.

5522. Halloween, Restrictions On Conduct.

5522.1 Violation.

Any person required to register as a sexual offender under sections 589.400 to 589.425, RSMo, shall be required on October thirty-first of each year to:

a. Avoid all Halloween-related contact with children;

b. Remain inside his or her residence between the hours of 5 p.m. and 10:30 p.m. unless required to be elsewhere for just cause, including but not limited to employment or medical emergencies; and

[c. Post a sign at his or her residence stating, "No candy or treats at this residence"; and]

c[d]. Leave all outside residential lighting off during the evening hours between 5 p.m. and 10:30 p.m.

5533. Weapons Offenses.

For the purposes of this chapter, the following terms shall be defined as follows:

a. Blackjack/Martial Arts Instrument.

Any instrument that is designed or adapted for the purpose of stunning or inflicting physical injury by striking a person, and which is readily capable of lethal use, i.e. nun[m]chucks, throwing stars, slapper, blackjack, etc.

b. Firearm.

Any weapon that is designed or adapted to expel a projectile by the action of an explosive.

c. Gas Gun.

Any gas ejection device, weapon, cartridge, container, or contrivance, other than a gas bomb, that is designed or adapted for the purpose of ejecting any poison gas that will cause death or serious physical injury, but not any device that ejects a repellant or temporary incapacitating substance.

d. Knife.

Any dagger, dirk, stiletto, or bladed hand instrument that is readily capable of inflicting serious physical injury or death by cutting or stabbing a person. For purposes of this chapter, "knife" does not include any ordinary pocket knife with a blade less than four inches in length.

e. Knuckles.

Any instrument that consists of finger ring(s) or guard(s) made of a hard substance that is designed, adapted, or used for the purpose of inflicting serious physical injury or death by striking a person with a fist enclosed in the knuckles.

f. Projectile Weapon.

Any bow, crossbow, pellet gun, slingshot, or other weapon that is not a firearm, which is capable of expelling a projectile that could inflict serious physical injury or death by striking or piercing a person.

g. Stun Gun/Taser.

Any portable device or weapon that produces an electric current impulse, wave, or beam capable of temporarily incapacitating, injuring, or killing a human being.

h. Switchblade/Butterfly Knife.

Any knife which has a blade that folds or closes into the handle or sheath, and which:

1. Opens automatically by pressure applied to a button or other device located on the handle; or
2. Opens or releases from the handle or sheath by the force of gravity or by the application of centrifugal force.

5548. Possession of Alcohol or Marijuana by Minor.

No person under the age of 21 years shall purchase alcoholic beverages or any marijuana product. No such person shall have in his possession, either on his/her person or in a vehicle of which he/she is an occupant, any alcoholic beverages or any marijuana product except when such minor shall be accompanied by parent or legal guardian.

5548.1 Misrepresentation of Age by Minor.

No person under the age of 21 shall misrepresent his/her age as being 21 years or older for the purpose of purchasing any alcoholic beverage or marijuana product.

Effective Date: This Ordinance shall be effective immediately upon signature by the County Executive.

APPROVED AS TO FORM:

Bryan Covinsky
Bryan Covinsky (May 2, 2024 11:42 CDT)
County Counselor

I hereby certify that the attached Ordinance, Ordinance No. 5847 introduced on May 6, 2024, was duly passed on May 15, 2024 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 8

Nays 0

Abstaining 0

Absent 1

This Ordinance is hereby transmitted to the County Executive for his signature.

5.15.2024
Date

Mary Jo Spino
Mary Jo Spino, Clerk of the Legislature

I hereby approve the attached Ordinance No. 5847.

5.16.2024
Date

Frank White, Jr.
Frank White, Jr., County Executive