

AN ORDINANCE PROVIDING FOR THE REGULATION AND USE OF DRUGS AND DRUG PARAPHERNALIA WITHIN THE CORPORATE LIMITS OF THE CITY OF WOOD HEIGHTS; PROVIDING FOR ENFORCEMENT AND PUNISHMENT FOR VIOLATIONS OF THIS ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE FOR THIS ORDINANCE.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF WOOD HEIGHTS, MISSOURI, AS FOLLOWS:

## SECTION I

### Drugs and Marijuana -- Legal Possession

1. No person other than a licensed pharmacist, licensed druggist, duly registered practicing physician, licensed veterinarian, or licensed dentist shall possess any cocaine, opium or any of their salts, alkaloids or derivatives, chloral, barbiturates, cannabis, marijuana, hashish or any compound or preparation of, or any compound or preparation of any of them or any amphetamine, desoxyephedrine, methylphenidate or any sale mixture or optical isomer thereof also having a stimulating effect on the central nervous system unless such possession is authorized by the certificate or label stating the name and address of the person selling or furnishing same, the name and address of the physician, veterinarian or dentist upon whose prescription such sale is made, the date of sale and the name of the person to whom such sale is made.

2. Nothing contained Subsection (1) of this Section shall be construed to prohibit the possession of any such drugs by any manufacturer, pharmacist, chemist, wholesale or retail pharmacist or druggist which have a valid and legal license issued by the State Department of Health.

## SECTION II

### Drugs and Marijuana -- Illegal Use

No person shall, at any place within the corporate limits of the City, administer to himself or to any other person, in any way or manner, any narcotic, or any compound, drug or mixture of which a narcotic drug is component part or any marijuana, or any barbiturate or any amphetamines except upon prescription of a duly licensed physician, nor shall any person, in any way or manner, aid, assist, abet or permit the use or administration of any narcotic drug, or any compound, drug or mixture of which a narcotic drug is a component part, or any marijuana or any barbiturate, or any amphetamines,

except upon prescription of duly licensed physician, and any person so offending shall be deemed guilty of a misdemeanor.

### SECTION III

#### Simulated Drug Or Simulated Controlled Substance-Delivery To Another Person

1. It shall be unlawful for any person to deliver any simulated drug or simulated controlled substance to another person.

2. For purposes of this Section simulated drugs or simulated controlled substances means:

a. Any product which identified itself by using a common name or slang term, similar term, or similar mark, imprint, brand or impression associated with a controlled substance, or;

b. Any product which indicates on its label or accompanying promotion material that the product simulates the effect of a controlled substance.

### SECTION IV

#### Possession Of And/Or Sale

No person shall sell, give away, manufacture, use or possess for any purpose whatever any simulated substance, simulated controlled substance, counterfeit substance or marijuana except as otherwise provided by law.

**SIMULATED DRUGS, SIMULATED SUBSTANCES, SIMULATED CONTROLLED SUBSTANCES OR COUNTERFEIT CONTROLLED SUBSTANCES:** Any product which identifies itself by using a common name or slang term, or similar name, term or mark or brand associated with a controlled substance as defined in Schedules I through V of the Uniform Controlled Substance Act; RSMo. Ch. 195, 1978, as amended, or which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

**IMITATION CONTROLLED SUBSTANCE:** A substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an "imitation controlled substance" the Court or authority concerned should consider, in addition to all other logically relevant facts, the following:

1. Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (non-prescription or non-legend) sales and was sold in the Federal Food and Drug Administration approved package, with the Federal 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 ~~of~~ Federal law related to controlled substances or fraud; *OR*

5. The proximity of the substances to controlled substances; and

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 noncontrolled substance that was initially introduced in commerce prior to the initial introduction into commerce of the controlled substance which it is alleged to imitate. Furthermore, an imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice of research.

#### SECTION V

No parole, probation, suspended sentence or any other form of judicial clemency may be exercised in behalf of any person being punished for a third or subsequent offense under this Ordinance, for selling, giving away, delivering, and/or manufacturing of a drug, simulated substance, simulated controlled substance, controlled substance, counterfeit controlled substance and/or dangerous drug, or for any person in violation of any of the provisions of this Section who has been previously convicted two (2) or more times for violations of any of the provisions of this Ordinance not contained in this Section.

State Law Reference -- Similar Provisions, RSMo.  
195.200 (8).

### SECTION VI

#### Possession Of Drug Paraphernalia

It shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, inhale, or otherwise introduce into the human body a controlled substance, as defined and in violations of this Ordinance.

State Law Reference -- Similar Provisions, RSMo.  
195.020 (2).

### SECTION VII

Penalty. Any person, partnership, association or corporation violating any of the provisions of this Ordinance or any person on whose property a violation is in existence, shall upon conviction thereof, be fined in an amount not to exceed ~~\$2500.00~~ or by imprisonment for not more than six (6) months or both such fine and imprisonment. Each day such violation is committed shall constitute a separate offense and shall be punishable as such hereunder.

### SECTION VIII

All Ordinances and parts of Ordinances that conflict with this Ordinance are hereby repealed.

This Ordinance shall take effect from and after its date of passage.

READ TWO TIMES AND PASSED THIS 6th DAY OF April,  
1993.

MAYOR AND CHAIRMAN OF THE BOARD  
OF ALDERMEN, CITY OF WOOD  
HEIGHTS, MISSOURI

ATTEST:

D.  
CITY CLERK