

WESTWOOD HILLS, KANSAS
ORDINANCE NO. 135

BE IT ORDAINED by the Governing Body of the City of Westwood Hills, Kansas as follows:

Section 1. Chapter 10 of the Municipal Code of the City of Westwood Hills, Kansas, 1979 Edition, is hereby amended by adding ARTICLE 6 thereto as follows:

"ARTICLE 6. DRUGS

10-601 Definitions: The definitions of terms used in this article relating to drugs in the City of Westwood Hills, Kansas shall be as follows:

a. The term "drug" means:

1. The salts and derivatives of barbituric acid or compounds, preparations or mixtures thereof;
2. Amphetamine, its salts and derivatives or compounds, preparations or mixtures thereof;
3. Hallucinogens, including bufotenine, ibogaine, DET (diethyltryptamine), DOM (STP), psilocybin, DMT (dimethyltryptamine), LSD-25 or LSD (d-lysergic acid diethylamide) and any other derivative or d-lysergic acid producing stimulating or hallucinogenic effects similar to those caused by LSD;
4. Other drugs or compounds, preparations or mixtures thereof which the State Board of Health shall find and declare by rule or regulation duly promulgated after reasonable public notice and opportunity for hearing to have a dangerous hallucinogenic, hypnotic, somnifacient or stimulating effect on the body of a human or animal;
5. Cannabis includes all parts of the plant Cannabis Sativa L. (more commonly known as "marijuana"), 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 the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

- b. Dangerous drug means one that is unsafe for use except under the supervision of a practitioner because of its toxicity or other potentiality for human effect, method of use, or collateral measures necessary to use.
- c. Somnifacient and stimulating shall have the meaning attributable in standard medical lexicons.
- d. Delivery means sale, dispensing, giving away, transporting or supplying in any other manner.
- e. Patient means, as the case may be:
 - 1. The individual for whom a drug is prescribed or to whom a drug is administered;
 - 2. The owner or the agent of the owner of the animals for which a drug is prescribed or to which a drug is administered: Provided, that the prescribing or administering referred to in this subsection is in good faith and in the course of professional practice only.
- f. Person includes individual, corporation, partnership, and association.
- g. Practitioner shall mean any person authorized by law to prescribe and administer drugs, as herein defined, in the course of his professional practice; professional practice of a practitioner means treatment of patients under a bona fide practitioner-patient relationship.
- h. Pharmacist means a person duly registered with the State Board of Pharmacy pursuant to Article 16 of Chapter 65 of the Kansas Statutes Annotated or acts amendatory thereof or supplemental thereto.
- i. 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 professional practice to a pharmacist for a drug for a particular patient, which specifies the date of its issue, the name and address of such practitioner, the name and address of the patient (and, if such drug is prescribed for an animal, the species of animal), the name and quantity of the drug prescribed, the directions for use of such drug, and the signature of such practitioner.
- j. Manufacturer means a person who manufactures drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, but does not include pharmacists so preparing such drugs solely for dispensing on prescriptions recieved or to be received by them.

- k. Wholesaler means a person engaged in the business of distributing drugs to persons included in any of the classes named in clauses i. to vi. inclusive, of subsection a.2. of Section 10-603 of this Article.

10-602 Handling of Drugs: Rules and regulations relating to handling, control, usage, etc., of drugs in the City of Westwood Hills, Kansas shall be as follows:

- a. It shall be unlawful for any person to deliver, possess, manufacture, have under his control, sell, or offer for sale any drugs unless:
1. Such drug is delivered by a pharmacist, or his authorized agent, in good faith upon prescription and there is affixed to the immediate container in which such drug is delivered a label bearing:
 - i. The name and address of the owner of the establishment from which such drug was delivered;
 - ii. The date on which the prescription for such drug was filled;
 - iii. The number of such prescription as filed in the prescription files of the pharmacist who filled such prescription;
 - iv. The name of the practitioner who prescribed such drug;
 - v. The name and address of the patient, and if such drug was prescribed for an animal, a statement showing the species of the animal;
 - vi. The direction for use of the drug and cautionary statements, if any, as contained in the prescription; and
 2. In the event that such delivery is pursuant to telephonic order, such prescription shall be promptly reduced to writing and filed by the pharmacist;
 3. Such drug is delivered by a practitioner in good faith and in the course of his professional practice only.
- b. It shall be unlawful for any person to refill any prescription for a drug unless such refilling is specifically authorized by the prescriber.

- c. It shall be unlawful for any person to fail to keep the records required by Section 10-604 of this article.
- d. It shall be unlawful for any person to possess a drug unless such person obtained such drug on the prescription of a practitioner or in accordance with subsection a.3. of this section or from a person licensed by the laws of any other state or the District of Columbia to prescribe or dispense drugs.
- e. It shall be unlawful for any person to refuse to make available and to accord full opportunity to check any record, file, stock or inventory as required by Section 10-604 of this Article.
- f. It shall be unlawful for any person to use to his own advantage, or to reveal other than to a public officer or employee charged with the duty of enforcing laws relating to the handling, sale and distribution of drugs, or to a court when relevant in a judicial proceeding, any information acquired under the authority of Section 10-604 of this Article concerning any method or process which as a trade secret is entitled to protection.
- g. It shall be unlawful for any person to obtain or attempt to obtain a drug by fraud, deceit, misrepresentation or subterfuge; or by the forgery or alteration of a prescription; or by the use of a false name or the giving of a false address.
- h. It shall be unlawful for any person to sell, offer for sale or have in his possession with the intent to sell any hallucinogenic or stimulating drug described in Section 10-601 of this Article.

(K.S.A. 65-4105d, 65-4126)

10-603 Exemptions: Exemptions relating to this article shall be as follows:

- a. The provisions of subsection a. and d. of Section 10-602 of this Article shall not be applicable to:
 - 1. The delivery of drugs for medical or scientific purposes only to persons included in any of the classes hereinafter named, or to the agents or employees of such persons, for use in the usual course of their business or practice or in the performance of their official duties, as the case may be;

2. The possession of drugs by the following class of persons or their agents or employees for the use described in paragraph 1. of this sub-section a.:

- i. Pharmacists;
- ii. Practitioners;
- iii. Persons who procure drugs:
 - a) For dispositions by or under the supervision of pharmacists or practitioners employed by them, or
 - b) For the purpose of lawful research, teaching, or testing and not for resale;
- iv. Hospitals and other institutions which procure drugs for lawful administration by or under the supervision of practitioners;
- v. Manufactureres and wholesalers;
- vi. Carriers and warehousemen.

- b. Nothing contained in Section 10-602 of this Article shall make it unlawful for a public officer, agent or employee, or person aiding such public officer in performing his official duties to possess, obtain, or attempt to obtain a drug for the purpose of enforcing the provisions of any law of this state or of the United States relating to the regulation of the handling, sale or distribution of drugs.
- c. Nothing in this Article shall apply to a compound, mixture or preparation containing a drug which is sold in good faith for the purpose for which it is intended and not for the purpose of evading the provisions of this Article if such compound, mixture, or preparation contains a sufficient quantity of another thereapeutic agent or agents, in addition to such drug, to cause it to prevent the ingestion of a sufficient amount of drug to cause a dangerous hypnotic, somnifacient or stimulating action.

10-604 Records, Inventories by Certain Person: Records and inventories to be kept by certain persons relating to drugs in the City shall be as follows:

- a. Persons (other than carriers) to whom the exemptions of Section 10-603 of this Article are applicable shall maintain detailed, but not necessarily separate, records and inventories relating to drugs manufactured, purchased, sold, distributed and handled by this subsection for not less than two (2) calendar years after the date of the transaction shown by such record and inventory.

- b. Pharmacists shall, in addition to complying with the provisions of subsection a. of this section, retain such prescription and written record of telephonic order for a drug filled by them, for not less than two (2) calendar years immediately following the date of the filling or the date of the last refilling of such prescription whichever is the later date.

10-605 Access to Records: Inspection - Persons required by Section 10-604 of this Article to keep files; inventories or records relating to drugs shall, upon the written request of a public officer or employee charged with the duty of enforcing laws relating to the handling, sale and distribution of drugs:

- a. Make such files, inventories or records available to such officer or employee at all reasonable hours, for inspection and copying, and
- b. Accord to such officer or employee full opportunity to check the correctness of such files, inventories or records, including opportunity to make inventory of all stocks of drugs on hand.

10-606 Penalty: Any person violating any of the provisions of this Article shall, upon conviction thereof, be punished by a fine of no more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment.

Passed by the governing body and approved by the Mayor
the 3 day of ~~January~~, 1986.

February

Al W. Tikwart, Jr., Mayor

Attest:

Gayle Nicolay
Gayle Nicolay, City Clerk

First Published in the John-
son County Sun, Friday, Febru-
ary 21, 1986.

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2. Amphetamine, its salts and
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thereof;

3. Hallucinogens, including
bufotenine, ibogaine, DET
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(STP), psilocybin, DMT
(dimethyltryptamine), LSD-25
or LSD (d-lysergic acid
diethylamide) and any other
derivative or dysergic acid
producing stimulating or
hallucinogenic effects similar to
those caused by LSD;

4. Other drugs or compounds,
preparations or mixtures
thereof which the State Board
of Health shall find and declare
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lic notice and opportunity for
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hallucinogenic, hypnotic, som-
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mal;

5. Cannabis includes all parts of
the plant Cannabis Sativa L.
(more commonly known as
"marijuana"), whether growing
or not; the seeds thereof; the
resin extracted from any part of
such plant; and every com-
pound manufacture, salt,
derivative, mixture or prepara-
tion of such plant, its seeds or
resin; but shall not include the
mature stalks of such plant,
fiber produced from such
stalks, oil or cake made from
the seeds of such plant, any
other compound manufacture,
salt, derivative, mixture or
preparation of such mature
stalks (except the resin ex-
tracted therefrom), fiber, oil, or
cake, or the sterilized seed of
such plant which is incapable of
germination.

b. Dangerous drug means
one that is unsafe for use ex-
cept under the supervision
of a practitioner because of its
toxicity or other potentiality for
human effect, method of use, or
collateral measures necessary
to use.

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porting or supplying in any other
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e. Patient means, as the case
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1. The individual for whom a
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2. The owner or the agent of the
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a drug is administered: Provided,
that the prescribing or admin-
istering referred to in this
subsection is in good faith and
in the course of professional
practice only.

f. Person includes individual,
corporation, partnership, and
association.

g. Practitioner shall mean
any person authorized by law to
prescribe and administer
drugs, as herein defined, in the
course of his professional prac-
tice; professional practice of a
practitioner means treatment
of patients under a bona fide
practitioner-patient relation-
ship.

h. Pharmacist means a per-
son duly registered with the
State Board of Pharmacy pur-
suant to Article 16 of Chapter
65 of the Kansas Statutes An-
notated or acts amendatory
thereof or supplemental
thereto.

i. Prescription means a writ-
ten order, and in cases of
emergency, a telephone order,
issued by a practitioner in good
faith in the course of his pro-
fessional practice to a phar-
macist for a drug for a par-
ticular patient, which specifies
the date of its issue, the name
and address of such practi-
tioner, the name and address of
the patient (and, if such drug is
prescribed for an animal, the
species of animal), the name
and quantity of the drug
prescribed, the directions for
use of such drug, and the
signature of such practitioner.

j. Manufacturer means a per-
son who manufactures drugs,
and includes persons who
prepare such drugs in dosage
forms by mixing, compounding,
encapsulating, entablating, or
other process, but does not in-
clude pharmacists so preparing
such drugs solely for dispensing
on prescriptions received or to
be received by them.

k. Wholesaler means a per-
son engaged in the business of
distributing drugs to persons
included in any of the classes
named in clauses i. to vi. in-
clusive, of sub-section a.2. of
Section 10-603 of this Article.

10-602 Handling of Drugs:
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1. Such drug is delivered by a
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prescription and there is affixed to
the immediate container in
which such drug is delivered a
label bearing:

i. The name and address of the
owner of the establishment
from which such drug was
delivered;

ii. The date on which the
prescription for such drug was
filled;

iii. The number of such
prescription as filed in the
prescription files of the phar-
macist who filled such prescrip-
tion;

iv. The name of the practitioner
who prescribed such drug;

v. The name and address of the
patient, and if such drug was
prescribed for an animal, a
statement showing the species
of the animal;

vi. The direction for use of the
drug and cautionary state-
ments, if any, as contained in
the prescription; and

2. In the event that such
delivery is pursuant to
telephonic order, such
prescription shall be promptly
reduced to writing and filed by
the pharmacist;

3. Such drug is delivered by a
practitioner in good faith and in
the course of his professional
practice only.

b. It shall be unlawful for any
person to refill any prescription
for a drug unless such refilling
is specifically authorized by the
prescriber.

c. It shall be unlawful for any
person to fail to keep the re-
cords required by Section 10-
604 of this article.

d. It shall be unlawful for any
person to possess a drug unless
such person obtained such
drug on the prescription of a
practitioner, or in accordance
with subsection a.3. of this sec-
tion or from a person licensed
by the laws of any other state or
the District of Columbia to
prescribe or dispense drugs.

e. It shall be unlawful for any
person to refuse to make
available and to accord full op-
portunity to check any record,
file, stock or inventory as re-
quired by Section 10-604 of this
Article.

f. It shall be unlawful for any
person to use to his own advan-
tage, or to reveal other than to
a public officer or employee
charged with the duty of enforc-
ing laws relating to the han-
dling, sale and distribution of
drugs, or to a court when rele-
vant in a judicial proceeding,
any information acquired under
the authority of Section 10-604
of this Article concerning any
method or process which as a
trade secret is entitled to pro-
tection.

g. It shall be unlawful for any
person to obtain or attempt to
obtain a drug by fraud, deceit,
misrepresentation or sub-
terfuge; or by the forgery or
alteration of a prescription; or
by the use of a false name or the
giving of a false address.

h. It shall be unlawful for any
person to sell, offer for sale or
have in his possession with the
intent to sell any hallucinogenic
or stimulating drug described
in Section 10-601 of this Article.
(K.S.A. 65-4105d, 65-4126)

10-603 Exemptions: Exem-
ptions relating to this article
shall be as follows:

a. The provisions of subsec-
tion a. and d. of Section 10-602
of this Article shall not be ap-
plicable to:

1. The delivery of drugs for
medical or scientific purposes
only to persons included in any
of the classes hereinafter nam-
ed, or to the agents or employ-
ees of such persons, for use in
the usual course of their busi-
ness or practice or in the per-
formance of their official duties,
as the case may be;

2. The possession of drugs by
the following class of persons or
their agents or employees for
the use described in paragraph
1. of this sub-section a.:

i. Pharmacists;

ii. Practitioners;

iii. Persons who procure drugs:

a) For dispositions by or un-
der the supervision of phar-
macists or practitioners em-
ployed by them, or

b) For the purpose of lawful
research, teaching, or testing
and not for resale;

iv. Hospitals and other institu-
tions which procure drugs for
lawful administration by or un-
der the supervision of prac-
titioners;

v. Manufacturers and
wholesalers;

vi. Carriers and ware-
housemen.

b. Nothing contained in Sec-
tion 10-602 of this Article shall
make it unlawful for a public of-
ficer, agent or employee, or
person aiding such public of-
ficer in performing his official
duties to possess, obtain, or at-
tempt to obtain a drug for the
purpose of enforcing the provi-
sions of any law of this state or
of the United States relating to
the regulation of the handling,
sale or distribution of drugs.

c. Nothing in this Article shall
apply to a compound, mixture
or preparation containing a
drug which is sold in good faith
for the purpose for which it is
intended and not for the pur-
pose of evading the provisions
of this Article if such compound,
mixture, or preparation con-
tains a sufficient quantity of
another therapeutic agent or
agents, in addition to such
drug, to cause it to prevent the
ingestion of a sufficient amount
of drug to cause a dangerous
hypnotic, somnifacient or
stimulating action.

**10-604 Records, Inventories by
Certain Person:** Records and
inventories to be kept by cer-
tain persons relating to drugs in
the City shall be as follows:

a. Persons (other than car-
riers) to whom the exemptions
of Section 10-603 of this Article
are applicable shall maintain
detailed, but not necessarily
separate, records and inven-
tories relating to drugs manu-
factured, purchased, sold, dis-
tributed and handled by this
subsection for not less than two
(2) calendar years after the date
of the transaction shown by
such record and inventory.

b. Pharmacists shall, in ad-
dition to complying with the pro-
visions of subsection a. of this
section, retain such prescrip-
tion and written record of
telephonic order for a drug filled
by them, for not less than
two (2) calendar years im-
mediately following the date of
the filling or the date of the last
refilling of such prescription
whichever is the later date.

10-605 Access to Records: In-
spection-Persons required by
Section 10-604 of this Article to
keep files, inventories or re-
cords relating to drugs shall,
upon the written request of a
public officer of employee
charged with the duty of enforc-
ing laws relating to the han-
dling, sale and distribution of
drugs:

a. Make such files, inven-
tories or records available to
such officer or employee at all
reasonable hours, for inspec-
tion and copying; and

b. Accord to such officer or
employee full opportunity to
check the correctness of such
files, inventories or records, in-
cluding opportunity to make in-
ventory of all stocks of drugs on
hand.

10-606 Penalty: Any person vi-
olating any of the provisions of
this Article shall, upon convic-
tion thereof, be punished by a
fine of no more than five hun-
dred dollars (\$500.00) or by
imprisonment in the county jail
for a period not to exceed nine-
ty (90) days, or by both such
fine and imprisonment.

Passed by the governing
body and approved by the
Mayor the 3rd day of Febru-
ary, 1986.

(s) Al W. Tikwart, Jr., Mayor

Attest:

(s) Gayle Nicolay, City Clerk

(5728 1F)

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, JOHNSON COUNTY, ss: **Judy L. Sutton** being first Duly sworn, Deposes and say: That she is legal publications manager of THE JOHNSON COUNTY SUN, a semi-weekly newspaper printed in the State of Kansas, and published in and of general circulation in JOHNSON County, Kansas, with a general paid circulation on a yearly basis in JOHNSON County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a semi-weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of SHAWNEE MISSION, KANSAS in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for One consecutive day (weeks, days) the first publication thereof being made as aforesaid on the 21st day of February 1986, with subsequent publications being made on the following dates:

_____, 19____, 19____
_____, 19____, 19____

Judy L. Sutton

Subscribe and sworn to before me this 21st day of February 1986

Pearlie A. Peterson

NOTARY PUBLIC

PEARLIE A. PETERSON
NOTARY PUBLIC
STATE OF KANSAS
My App. Expires Jan. 25, 1988

My Commission expires: 152.69
Printer's Fee \$ _____
Additional copies \$ _____