

ORDINANCE NUMBER 541

AN ORDINANCE OF THE CITY OF HIGHLAND, KANSAS, REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF HIGHLAND, KANSAS; INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES", EDITION OF 2017, WITH CERTAIN CHANGES AND ADDITIONS; PRESCRIBING ADDITIONAL REGULATIONS; PROVIDING CERTAIN PENALTIES AND REPEALING ORDINANCE NUMBER 531 OF SAID CITY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HIGHLAND:

SECTION 1: INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Highland, Kansas, that certain code known as the "Uniform Public Offense Code for Kansas Cities", Edition of 2017 (33rd Edition), prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles and sections as are hereafter omitted, modified or changed. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 541," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and, to which shall be attached a copy of this ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge, city attorney, and all administrative departments of the City charged with enforcement of the ordinance shall be supplied, at the cost of the City, such number of official copies of said Standard Public Offense Ordinance as may be deemed expedient.

SECTION 2: Article 5 of said Uniform Public Offense Code is hereby supplemented by adding the following sections:

SECTION 5.9 UNLAWFULLY PERMITTING JUVENILES TO BE ON PREMISES WHERE CEREAL MALT BEVERAGE IS SOLD.

(a) No proprietor, owner, or licensee, or any agent or employee of any such proprietor, owner or licensee, of any place of business or establishment licensed to sell, for consumption on the premises, cereal malt beverages within the City, shall permit any person under the age of 18 years to be in or upon such premises between the hours of 10 p.m. through 6 a.m., unless such person is accompanied by his or her parent or legal guardian. The lack of knowledge of the age of such minor shall not be a defense to a prosecution under this section.

(b) Violation of this section is a Class C violation.

SECTION 5.10 UNLAWFULLY PERMITTING CONSUMPTION OF CEREAL MALT BEVERAGE.

(a) No proprietor, owner or licensee, or any agent or employee of any such proprietor, owner or licensee, shall permit any person under the legal age for consumption of cereal malt beverage to consume or have in his or her possession any of such beverage in any place of business or establishment licensed to sell cereal malt beverages. The lack of knowledge of the age of the consumer or possessor of the cereal malt beverage shall not be a defense to a violation of this section.

(b) Violation of this section is a Class C violation.

SECTION 3: Article 11 of said Uniform Public Offense Code is hereby supplemented by adding the following sections:

SECTION 11.13 POSSESSION OR CONSUMPTION OF CEREAL MALT BEVERAGE PROHIBITED IN CERTAIN PLACES.

(a) No person shall drink or consume any cereal malt beverage, or have any such cereal malt beverage in such person's possession in an open container, while such person is upon the public property, public streets, alleys, roads, highways, rights-of-way, parks or other public places within the City of Highland; provided, however, the City may choose to designate, from time to time, by motion of the council at a duly convened meeting, certain specific public areas or spaces in said City, within which this prohibition shall not apply for a designated period of time. No person shall drink or consume any cereal malt beverage, or have any such cereal malt beverage in such person's possession in an open container, while such person is upon private property within the City of Highland, except by a person occupying such property as an owner or lessee of an owner and by the invited guests of such owner or lessee or by a person on private property on which is located a business or establishment which is lawfully licensed to sell cereal malt beverage for consumption on the premises.

(b) Violation of this section is a Class C violation for which the minimum fine is \$50.00.

SECTION 11.14 POSSESSION OR CONSUMPTION OF ALCOHOLIC LIQUOR PROHIBITED IN CERTAIN PLACES.

(a) No person shall drink or consume any alcoholic liquor, or have any such alcoholic liquor in such person's possession in an open container, while such person is upon the public property, public streets, alleys, roads, highways, rights-of-way, parks or other public places within the City of Highland (provided, however, the City may choose to designate, from time to time, by motion of the council at a duly convened meeting, certain specific public areas or spaces in said City, within which this prohibition shall not apply for a designated period of time), or in any beer parlor, tavern, pool hall or other place to which the general public has access (unless the same is otherwise permitted under state law). No person shall drink or consume any alcoholic liquor, or have any such alcoholic liquor in such person's possession in any open container, while such person is upon private property within the City of Highland, except by a person occupying such property as an owner or lessee of an owner and by the invited guests of such owner or lessee.

(b) Violation of this section is a Class C violation for which the minimum fine is \$100.00.

SECTION 4: The Uniform Public Offense Code is hereby supplemented by the addition of ARTICLE 14, DRUG OFFENSES, and by adding the following sections thereto:

SECTION 14.1 POSSESSION OF DEPRESSANTS, STIMULANTS OR HALLUCINOGENIC DRUGS OR OTHER SUBSTANCES.

(a) Except as authorized by the Controlled Substances Act under state law, it shall be unlawful for any person to possess or have under such person's control, any of the following designated substances, including those set forth which may be later proscribed by amendment of the listed Kansas Statutes Annotated as the same may be amended from time to time:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) Any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4), (d)(5) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) Any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, subsection (g) of K.S.A. 65-4107 or subsection (g) of K.S.A. 65-4109, and amendments thereto;

(4) Any substance designated in subsection (g) of K.S.A. 65-4105, and subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto;

(5) Any anabolic steroids as defined in subsection (f) of K.S.A. 65-4109, and amendments thereto; or

(6) Any substance designated in K.S.A. 65-4113, and amendments thereto; or

(7) Any substance designated in subsection (h) of K.S.A. 65-4105, and amendments thereto.

(b) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.

(c) For purposes of the controlled substances act, the prohibitions contained in this section shall apply to controlled substance analogs as defined in subsection (bb) of K.S.A. 65-4101 and amendments thereto.

(d) Except as specified otherwise herein, the provisions of this section shall be in conformance with the provisions of the Controlled Substances Act under state law, and the definitions and other provisions of such act shall apply herein.

(e) Any person who violates this ordinance shall be guilty of a Class A violation.

SECTION 14.2 USE OR POSSESSION OF SIMULATED CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA.

(a) No person shall use or possess with intent to use:

(1) Any simulated controlled substance;

(2) any drug paraphernalia to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act under state law; or

(3) any drug paraphernalia used to cultivate less than 5 marijuana plants, in violation of the Controlled Substances Act under state law.

(b) Except as specified otherwise herein, the provisions of this section shall be in conformance with the provisions of the Controlled Substances Act under state law, and the definitions and other provisions of such act shall apply herein.

(c) The fact that an item has not yet been used or did not contain a controlled substance at the time of seizure is not a defense to a charge that the item was possessed with the intention for use as drug paraphernalia.

(d) In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, those factors listed in K.S.A. §21-5711, or as may be otherwise proscribed under Kansas law.

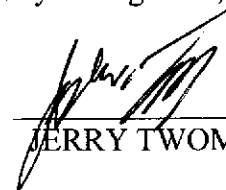
(e) Any person who violates this ordinance shall be guilty of a Class A violation.

SECTION 5: CONFLICT WITH STATE LAW. In the event any of the provisions of this ordinance are construed to be in conflict with or contrary to the provisions of state law, as referenced in K.S.A. 41-2631 or otherwise, as the same may be amended from time to time, such terms and provisions as are found to be in conflict with or contrary to such state law shall be found to be null and void. In such event, all of the remaining terms and provisions of this ordinance shall be severed from such contrary or conflicting terms and the remaining terms and provisions hereof shall remain in full force and effect.

SECTION 6: REPEAL. Ordinance number 531 of the City of Highland, Kansas, is hereby repealed.

SECTION 7: EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its summary publication in the official city newspaper.

Passed by the Council and approved by the Mayor of the City of Highland, Kansas, this 9th day of August, 2017.



JERRY TWOMBLY, Mayor

ATTEST:



Joann Karn, City Clerk
(SEAL)