ORDINANCE NO. 1787

AN ORDINANCE of the City of Kent, Washington, prohibiting "possession, sale or use of narcotics and barbiturates" and related activities and providing penalties for the violation thereof. (Kcc 4.12)

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Unlawful to use or be under influence of narcotics - Exception. It shall be unlawful, except when lawfully administered in good faith by a physician or other person authorized by law so to do, for any person to use or be under the influence of opium, morphine, cocaine, hydrate of chloral, isonipecaine, amidone, isosmidone, keto-bemidone, or any other substance neither chemically nor physically distinguishable from any one of them or any opiate or narcotic or derivative thereof. An individual is "under the influence" of narcotics for the purpose of this section when any of his normal faculties are substantially affected or impaired as a result of the use of such opiate or narcotic or derivative thereof.

Section 2. Unlawful to possess narcotics without proper license or prescription. It shall be unlawful for any person not being registered or licensed as is required by the Federal Act of December 17, 1914, commonly known as the Harrison Act, (Sec. 3221, Title 26, Ch. 27, United States Code Annotated, and the Controlled Substance Act of October 27, 1970 - Public Law 91-513), to possess any opium, morphine, cocaine, hydrate of chloral, isonipecaine, amidone, isosmidone, keto-bemidone, or
any other substance neither chemically nor physically distinguishable from any one of them, or any opiate or narcotic or derivative thereof unless purchased by the possessor thereof upon prescription of a physician or other person licensed by law to dispense such narcotic or narcotic drug.

Section 3. Unlawful to sell or give away narcotics without prescription - Prescription record. It shall be unlawful for any apothecary, pharmacist, druggist or other person, to sell, give away, exchange, barter or otherwise dispose of, any opium, morphine, cocaine, hydrate of chloral, isonipecaine, amidone, isosmidone, keto-bemidone, or any other substance neither chemically nor physically distinguishable from any one of them, or any narcotic, the principal ingredient of which is opium or any narcotic substance or preparation derived in any part from and containing as principal ingredient any opium, morphine, cocaine, hydrate of chloral, isonipecaine, amidone, isosmidone, keto-bemidone, or any other substance neither chemically nor physically distinguishable from any one of them, or any narcotic, to any person or persons, except to a physician, surgeon or dentist, for use in his profession or calling, or upon the written prescription of a physician, surgeon or other person licensed to issue such prescription; and unless he shall keep in a suitable and well-bound book, kept and used for that purpose only, a true and consecutive memorandum record of every such sale, gift, exchange, barter or disposition, showing the time when, the place where, the name of the proprietor or other person by whom, and the name of the person to whom, the same was made, and the quantity and kind of narcotic, and the name of the physician or surgeon upon whose prescription the same was made, if made upon a prescription, and the number of the prescription; and unless he shall place and keep on file all such prescriptions consecutively numbered. Such book and prescriptions shall be a public record and shall be open at all reasonable times to the inspection of the mayor, the director of health and any accredited officer of the department of health and sanitation, the chief of police or any officer, the city attorney, and any persons specially authorized by the mayor; and it shall be unlawful for any such apothecary, pharmacist, druggist or other person to fail or refuse to
exhibit such book and prescriptions to any of the above named officers upon demand.

Section 4. Prescribing narcotics - Quantity limited. It shall be unlawful to prescribe opium, morphine, cocaine, hydrate of chloral, isonipecaine, amidone, isosmidone, ketobemidone, or any other substance neither chemically nor physically distinguishable from any one of them, or any opiate or narcotic drug or derivative thereof, in such a manner as to leave the quantity of the dose or the frequency of the taking of any dose to the discretion of the person to whom such prescription is issued; and it shall be unlawful for any person dispensing any such narcotic or narcotic drug to furnish the same upon any such prescription.

Section 5. Sale, possession or use of dangerous drugs - Definitions and requirements. (a) It is unlawful to sell, give away, barter, exchange, distribute, possess or use any dangerous drug except as now or hereafter authorized or permitted by the laws of the State of Washington, or except upon the written or oral order or prescription of a physician, surgeon, dentist, or veterinary surgeon licensed to practice in the state, which order or prescription shall not be refilled without the written or oral order of the prescriber. (b) The term "dangerous drug" for the purpose of this ordinance shall mean and include any of the following drugs:

1. Amytal, luminal, veronal, barbital, acid diethylbarbituric, or any salts, derivatives, or compounds thereof, or any preparation or compound containing any of such substances, or their salts, derivatives, or compounds, or any registered, trademarked, or copyrighted preparation or compound registered in the United States patent office containing more than one grain to the avoirdupois or fluid ounce of such substances;

2. Amphetamine, dextroamphetamine, dimethyltryptamine, lysergic acid, psilocin, marihauna (canabis sativa), mescamine, peyote, or any salts, derivatives, or compounds thereof, or any preparation or compound containing any of the foregoing
substances, or their salts, derivatives, or compounds, or any registered, trademarked, or copyrighted preparation or compound registered in the United States patent office containing such substances;

(3) Any drug found by federal law or regulation or Washington state law or pharmacy board regulation to have a potential for abuse because of its depressant or stimulant effect on the central nervous system or because of its hallucinogenic effect, or which is required by any applicable federal law or regulation or Washington state law or pharmacy board regulation to be used only on prescription of a physician, surgeon, dentist, or veterinary surgeon licensed to practice in the state.

Section 6. Unlawful to possess without prescription. It is unlawful to possess any drug mentioned in Sections 2 and 5 hereof purchased or acquired pursuant to an order or prescription except in the container in which so purchased or acquired.

Section 7. Unlawful to possess unless specifically prescribed for person in possession. It is unlawful to possess any drug mentioned in Sections 2 and 5 unless the possessor of same be licensed to have the same in his possession, or be the party for whom the drug in question has been specifically prescribed by a physician or other person licensed by law to dispense the same, or be the duly authorized representative of the party for whom the drug has been prescribed.

Section 8. Unlawful to administer except as prescribed. It is unlawful to use or administer any drug mentioned in Sections 2 and 5 hereof except in the amount, for the purposes, and as prescribed by the order of prescription pursuant to which the same was acquired.

Section 9. Unlawful to be under influence in public place. It is unlawful to be under the influence of any drug within the purview of this chapter in any private premises or house to the annoyance of any individual or in a public place, in a vehicle in or on a public place, or in a place open to the public view or to which the public has access. An individual
is "under the influence" of a drug for the purpose of this section when any of his normal faculties are substantially affected or impaired as a result of the use of such drug.

Section 10. Prosecution for violation - Alleging offense. In any prosecution for violation of this chapter it shall not be necessary to negate any exception, proviso or exemption contained in such chapter and the burden of proof of such exception, proviso or exemption shall be upon the defendant.

Section 11. Unlawful possession of Injection Devices. It shall be unlawful for any person to possess any hypodermic needle, syringe, or similar device which may be adapted or used for injecting drugs or other substances by subcutaneous or intracutaneous injection into the body, unless such possession be authorized for medical or physical treatment by a licensed medical doctor or osteopathic physician; provided, however, that the provisions contained in this section shall not apply to manufacturers, jobbers, licensed medical technicians, hospitals, nursing homes, technologists, nurses, laboratories, research teaching institutes, medical doctors, osteopathic physicians, dentists, veterinarians, pharmacists, embalmers, drug stores and drug distributors selling or using such devices in the ordinary and legal course of their respective business, trades or professions.

Section 12. Possession as prima facie evidence of violation. In any prosecution under this chapter it shall be competent to prove that any person has in his possession any of the narcotics or narcotic drugs named herein, or their derivatives, and/or any drug mentioned in Sections 2 and 5, or possession and the proof thereof shall be prima facie evidence that said narcotic or dangerous drug was so held in violation of the terms of this chapter; except under circumstances where the substance in question was prescribed by a physician or doctor or other licensed person for the party who has the same in his or her possession and such substance is in the container in which it was purchased or acquired, or the party in possession is the duly authorized representative of the person for whom the substance was prescribed.
Section 13. Unlawful to aid or abet furnishing certain drugs to persons in jail or custody of police. It is unlawful for any person not acting under the direction of the director of public health to furnish, or aid or abet the furnishing of, any opium, morphine, cocaine, hydrate of chloral, isonipecaine, amidone, isosmidone, keto-bemidone, or any substance neither chemically nor physically distinguishable from any one of them, or any opiate or narcotic, or narcotic derivative thereof, or any of the "dangerous drugs" mentioned in Section 5, to any person confined in the city jail or in the custody of the police department, unless the substance in question be lawfully prescribed for said person by a doctor or physician and is given to such person under the direction of that person's physician or doctor.

Section 14. Places of resort for users of narcotics and/or dangerous drugs declared nuisance. It shall be unlawful for any person, firm, corporation or agent, holding, leasing, renting, occupying or having charge and control of, any building, structure or premises, or room or rooms therein, to permit the same to be used as a place of resort for persons known to be users of narcotics, narcotic drugs, or dangerous drugs (mentioned in Sections 2 and 5); or to permit therein the unlawful sale, gift or distribution of narcotics, narcotic drugs, or dangerous drugs (mentioned in Sections 2 and 5) and any such place, or any place which is a resort for users of narcotics, narcotic drugs, or dangerous drugs (mentioned in Sections 2 and 5), is hereby declared to be a public nuisance, and may be abated as such in the manner provided by this chapter.

Section 15. Abatement of places of resort. Any building, structure, premises, or room or rooms therein, constituting a nuisance as defined in this chapter, may be abated in a civil action in the manner provided by law; or the court upon final judgment of conviction for violation of this chapter of any person found therein at the time of his arrest may forthwith, and as a part of the same proceeding, direct the chief of police to abate any such place as a nuisance; or the chief of police, upon ascertaining that any such place is a nuisance as defined by this
chapter, may proceed to summarily abate the same. Such abatement shall be effected by closing and securely locking the place abated and excluding all persons therefrom. It shall be unlawful for any owner, agent, lessee, tenant, person in charge or occupant, to enter, use or occupy any building, structure or premises, or room or rooms therein, abated as a nuisance under the provisions of this chapter, from and for a period of one year after the date of such abatement, unless he as principal shall theretofore give and file with the city clerk a good and sufficient surety bond, to be approved by the court making the order of abatement, or in case of summary abatement to be approved by the chief of police, in the penal sum of one thousand dollars ($1,000), payable to the City of Kent, conditioned that such building, structure or premises, or room or rooms therein, will not thereafter be used in violation of this chapter; and that he will pay all fines, cost and damages assessed against him for any violation of this chapter; and in case of the violation of any of the conditions of such bond the whole amount may be recovered as a penalty for the use of the City.

Section 16. Unlawful to frequent or be in place where narcotics and/or dangerous drugs are unlawfully kept, used or disposed of. It is unlawful for anyone, not lawfully authorized to frequent, enter, be in, or be found in, any place where narcotics, narcotic drugs, their derivatives, or dangerous drugs (mentioned in Sections 2 and 5) are unlawfully used, kept or disposed of.

Section 17. Penalty for violations. Any person, firm or corporation who shall violate or fail to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in any sum not to exceed five hundred (500) dollars, or be imprisoned in the city jail for a term not to exceed six (6) months, or by both such fine and imprisonment.

Section 18. Provisions of chapter cumulative. This chapter shall be cumulative to, and of, existing ordinances and
shall not be construed as a repeal or modification of any other ordinance or part thereof; but all such ordinances are continued as in full force and effect as if this chapter had not been enacted. If any provision of this chapter, or its application to any person or circumstances is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

Section 19. This Ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication, as provided by law.

ISABEL HOGAN, MAYOR

ATTEST:

MARIE JENSEN, City Clerk

APPROVED AS TO FORM:

DONALD E. MIRR, City Attorney

PASSED the 5th day of September, 1972.
APPROVED the 6th day of September, 1972.
PUBLISHED the 10th day of September, 1972.

I hereby certify that this is a true copy of Ordinance No. 1787, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

MARIE JENSEN, City Clerk (SEAL)