AN ORDINANCE of the City of Kent, Washington, relating to solicitation of sale or purchase of narcotics; amending Ordinance 1787 (Kent City Code Chapter 9.12).

WHEREAS, the Kent City Council seeks to increase law enforcement's arsenal in the war on drugs; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Kent City Code Chapter 9.12 is amended as follows:

CHAPTER 9.12

NARCOTICS AND BARBITUATES

9.12.04. 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 to do so, 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.

9.12.08. 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, 1980 – 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 narcotics 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.

9.12.12. 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 prescription 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.

9.12.16. PRESCRIBING NARCOTICS - QUANTITY LIMITED. It shall be unlawful to prescribe 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 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.

9.12.20. SALE, POSSESSION OR USE OF DANGEROUS DRUGS - DEFINITIONS AND REQUIREMENTS.

A. It is unlawful to sell, offer to sell, purchase, offer to purchase, 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 Chapter shall mean and include ((any-of-the-following-drugs:)) marijuana (canibus sativa) and any controlled substance classified in Schedule I, II, III or IV of Title 69.50 RCW, as it now exists or shall hereafter be added to, deleted from, modified or amended.

((\text{try~ Amytal,~ Luminal,~ Veronal,~ Barbitals,~ Acid~}
\text{diethylbarbituric,~ or~ any~ saits,~ derivatives,~ or~ compounds~}
\text{thereof,~ or~ any~ preparation~ or~ compound~ containing~ any~ of~ such~}
\text{substances,~ or~ their~ saits,~ derivatives,~ or~ compounds,~ or~ any~}
\text{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-psylocin-marijuana-{canabis-sativa}-mescaline,
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-or-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;

9.12.24. UNLAWFUL TO POSSESS WITHOUT PRESCRIPTION. It is
unlawful to possess any drug mentioned in Sections 9.12.08 and
9.12.20 hereof purchased or acquired pursuant to an order or
prescription except in the container in which so purchased or
acquired.

9.12.28. UNLAWFUL TO POSSESS UNLESS SPECIFICALLY
PRESCRIBED FOR PERSON IN POSSESSION. It is unlawful to possess
any drug mentioned in Sections 9.12.08 and 9.12.20 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.

9.12.32. UNLAWFUL TO ADMINISTER EXCEPT AS PRESCRIBED. It is
unlawful to use or administer any drug mentioned in Sections
9.12.08 and 9.12.20 hereof except in the amount, for the purposes,
and as prescribed by the order of prescription pursuant to which
the same was acquired.

9.12.36. 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
this normal faculties are substantially affected or impaired as a
result of the use of such drug.

9.12.40. 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.

9.12.44. 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.

9.12.48. 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 9.12.08 and 9.12.20, 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.

9.12.52. 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 9.12.20 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.

9.12.56. 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 9.12.08 and 9.12.20); or to permit therein the unlawful sale, gift or distribution of narcotics, narcotic drugs, or dangerous drugs (mentioned in Sections 9.12.08 and 9.12.20) and any such place, or any place which is a resort for users of narcotics, narcotic drugs, or dangerous drugs (mentioned in Sections 9.12.08 and 9.12.20), is hereby declared to be a public nuisance, and may be abated as such in the manner provided by this Chapter.
9.12.60. 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 therefor 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 (1000) dollars, 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.

9.12.64. 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 9.12.08 and 9.12.20) are unlawfully used, kept or disposed of.

9.12.68. 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 of not less than two hundred fifty ($250) dollars for a first offense, and a mandatory, not suspendable, jail term of not less than twenty-four consecutive hours. On a second or subsequent conviction, the fine shall not be less than five hundred ($500) dollars. These fines shall be in addition to any other fine or penalty imposed. The fine and jail term shall not exceed ninety (90) days or one thousand ($1,000) dollars.

Section 2. Effective Date. This ordinance shall take effect and be in force thirty (30) days from the time of its final passage as provided by law.

DAN KELLEHER, MAYOR

ATTEST:

MARIE JENSEN, CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PASSED the 17 day of January, 1990.
APPROVED the 19 day of January, 1990.
PUBLISHED the 20 day of January, 1990.

I hereby certify that this is a true copy of Ordinance No. 19-90, 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

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