

BOARD OF COUNTY COMMISSIONERS
Grant County, Washington

**ORDINANCE CREATING CH. 6.46 OF
THE GRANT COUNTY CODE TITLED
“CONTROLLED SUBSTANCES”
BANNING KNOWING POSSESSION OF
UNLAWFUL CONTROLLED
SUBSTANCES AND AMENDING CH.
1.32 TITLED “CODE ENFORCEMENT
AND PENALTIES”**

ORDINANCE No. 21- 020 -CC

WHEREAS, Grant County citizens suffer from illegal drugs, and

WHEREAS, Grant County resources have had difficulty coping with, and at times have been overwhelmed by, illegal drug use, and

WHEREAS, the health and safety of Grant County Citizens and visitors is the preeminent concern of the County; and

WHEREAS, illegal drugs pose a significant risk to the health and safety of Grant County citizens and visitors, and

WHEREAS, the improper use of controlled substances is correlated with criminal behavior, and

WHEREAS, Grant County has been designated as a High Intensity Drug Trafficking Area; and

WHEREAS, the Washington State Supreme Court, in *State v. Blake*, struck down as unconstitutional the State crime of possession of a controlled substance for failure to include a mens rea element, and

WHEREAS, the Washington State Legislature has failed to act to correct the deficiencies in the statute as noted in *State v. Blake*, and

WHEREAS, the Board of County Commissioners has determined that a ban on knowing possession of controlled substances should be imposed; and

WHEREAS, illegal controlled substances are the concern of all of Grant County, including all local law enforcement.

NOW, THEREFORE, BE IT ORDAINED, the Board of Grant County Commissioners, ADOPTS AND HEREBY ADDS A NEW CHAPTER, 6.46, TO TITLE 6 OF THE GRANT COUNTY CODE TITLED CONTROLLED SUBSTANCES, AND AMENDS COUNTY CODE SECTION 1.32.020 TO READ AS FOLLOWS:

Chapter 6.46- CONTROLLED SUBSTANCES.

Sections:

6.46.010 Definitions

All definitions from RCW 69.50 are hereby adopted and incorporated herein.

6.46.020. Knowing possession of controlled substances prohibited

It is unlawful for any person to knowingly possess a controlled substance, except as authorized in this chapter or other State or Federal law.

6.46.030 Violation-Penalties

Except as otherwise stated in this chapter, any violation of section .020 of this chapter is a gross misdemeanor, punishable by not more than 364 days in jail and a fine of not more than \$5,000.00.

6.46.040 Permissible possession of marijuana.

Possession of marijuana, useable marijuana, marijuana concentrates, and, marijuana infused products in amounts that do not exceed those in RCW 69.50.360(3) by those age 21 and over is not violation of this chapter. Possession of medical marijuana in accordance with RCW chapters 69.50 or 69.51A is not a violation of this chapter. Possession of marijuana pursuant to a license issued by the Washington State Liquor and Cannabis Control Board is not a violation of this chapter.

6.46.050 Possession of less than 40 grams of marijuana

Except as listed in section 6.46.040, knowing possession of less than 40 grams of marijuana or knowing possession of marijuana, marijuana-infused product, or marijuana concentrates, regardless of THC concentration by a person under the age of 21 is a misdemeanor, punishable by not more than 90 days in jail and a fine of not more than \$1,000.00.

6.46.060 Valid prescription

It shall not be a violation of this chapter to possess a controlled substance pursuant to a lawfully issued prescription or order of a practitioner while acting in the course of his or her professional practice. A lawful prescription is an affirmative defense, provable by a preponderance of the evidence.

6.46.070 Manufacture, distribution and dispensing according to law not prohibited

It is not a violation of this chapter to possess a controlled substances in accordance with State and Federal Law regarding the regulated manufacture, distribution or dispensing of controlled substance.

6.46.080 Preemption and savings clause

In the event the Washington State Legislature passes a law preempting this ordinance this ordinance shall cease to have effect on the same date the statute comes into effect. Any violation of this ordinance that occurs prior to the preempting statute coming into effect may be prosecuted and punished pursuant to this ordinance.

6.46.090 Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or the application of the provisions to other person or circumstances is not affected.

6.46.100 Chapter cumulative.

The provisions of this chapter are not intended to repeal any other ordinance or statute involving the same subject matter.

6.46.110 Effective date

This ordinance is necessary for the immediate preservation of the public peace, health, or safety of the citizens of the Country and takes effect immediately upon passage by the Board of County Commissioners.

Chapter 1.32 – CODE ENFORCEMENT AND PENALTIES

Section 1.32.020 is amended as follows:

This title shall apply to the enforcement of Grant County ordinances and codes, including those related to building, zoning, environmental health and safety, and quality of life. Violations include but are not limited to:

- (1) Failure to obtain required permits or authorizations within the administrative jurisdiction of the applicable department;
- (2) Failure to comply with the terms or conditions of a permit or authorization issued by the applicable department;
- (3) Failure to comply with any county code provision within the administrative jurisdiction of the applicable department;
- (4) Failure to comply with rules or regulations adopted pursuant to the administrative authority of the applicable department;
- (5) Removal without authorization or defacing any sign, notice or order posted pursuant to the administrative authority of the applicable department; and
- (6) Failure to comply with a stop work or emergency order issued under this chapter.

Violations of the applicable code shall be corrected under the provisions of this title, in coordination with existing ordinance and code provisions.

Enforcement. Only an authorized official may enforce the provisions of this title. For purposes of this title, an authorized official is defined as any one of the following:

- (1) The Grant County Sheriff and his or her authorized representatives (primary);
- (2) The Grant County Director of Public Works and his or her authorized representatives;
- (3) The Grant County Director of Development Services and his or her authorized representatives;
- (4) The Grant County Prosecuting Attorney may, in addition to any enforcement provisions hereunder, have authority to institute any legal proceedings necessary to enforce this title; and
- (5) The Grant County Board of Commissioners may designate other persons to administer the provisions of this title.

Nothing in this chapter is intended to restrict the authority of law enforcement officers from any jurisdiction from enforcing the provisions of Title 6 of this code.

PASSED AND ADOPTED this 16th day of March, 2021.

**BOARD OF COUNTY
COMMISSIONERS
GRANT COUNTY, WASHINGTON**

Yea	Nay	Abstain	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Cindy Carter</u> Cindy Carter, Chair
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Danny Stone</u> Danny Stone, Vice-Chair
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Rob Jones</u> Rob Jones, Member

ATTEST:

[Signature]
Clerk of the Board