

Drug Paraphernalia Ordinance

Article I (Definitions)

The term “drug paraphernalia” means all equipment, products, and material of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this Ordinance. It includes, but is not limited to:

1. Kits used, intended for use, or designed for use in planting, propagating, cultivation, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
3. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
4. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
5. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
7. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marihuana;
8. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.
9. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in storing or concealing controlled substances;
10. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parentally injected controlled substances into the human body;
12. Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- b. Water pipes;
- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;
- e. Roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers;

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal law relating to any controlled substance;
3. The proximity of the object, in time and space, to a direct violation of this Ordinance;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of this Ordinance; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Ordinance should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;

8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of the sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.

Article II (Offenses and Penalties)

SECTION A (Possession of Drug Paraphernalia)

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Ordinance. Any person who violates this section, upon conviction, shall be fined not more than \$100.00, no portion of which may be suspended.

SECTION B (Manufacture or Delivery of Drug Paraphernalia)

It is unlawful for any persons to deliver, possess, with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Ordinance. Any person who violates this section, upon conviction, shall be fined not more than \$100.00, no portion of which may be suspended.

SECTION C (Delivery of Drug Paraphernalia to a Minor)

Any person 18 years of age or over who violated Section B by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years his junior, upon conviction, shall be fined not more than \$100.00, no portion of which may be suspended.

SECTION D (Advertisement of Drug Paraphernalia)

It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this section, upon conviction, shall be fined not more than \$100.00, no portion of which may be suspended.

Article III (Civil Forfeiture)

All drug paraphernalia as defined above shall be, upon proof of a violation as set forth above, subject to civil seizure and forfeiture.

Article IV (Severability)

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or application of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Adopted at Town Meeting, March 10, 1981

Deanna MacKay, Town Clerk