

Ordinance #2012-6

DRUG PARAPHERNALIA ORDINANCE

Section 1. Purpose: The purpose of this ordinance is to establish a Drug Paraphernalia Ordinance for the Township of Meenon, Burnett County, Wisconsin.

Section 2. Definitions:

- A. The term “drug paraphernalia” means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of statutes of the State of Wisconsin. It includes, but is not limited to:
1. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is 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 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. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use or customarily intended for use in cutting controlled substances;
 7. Separation gins and sifters used or intended for use or customarily intended for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
 8. Blenders, bowls, containers, spoons, and mixing devices used or intended for use in compounding controlled substances;
 9. Capsules, balloons, envelopes, and other containers used or intended for use or customarily intended for use in packaging small quantities of controlled substances;
 10. Containers, and other objects used or intended for use or customarily intended for use in storing or concealing controlled substances;
 11. Hypodermic syringes, needles, and other objects used, intended for use or customarily intended for use in parenterally injected controlled substances into the human body;
 12. Objects used or intended for use or customarily intended for use in ingesting, inhaling, otherwise introducing marijuana, 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 screen, 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 materials such as a marijuana 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. Bongos;
- m. Ice pipes or chillers.

- B. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all 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 substances;
 - 3. The proximity of the object, in time and space, to a direct violation of State of Wisconsin Statutes regulating the use and possession of illicit substances;
 - 4. The proximity of any residue of controlled substances;
 - 5. The existence of any residue of controlled substances on the object;
 - 6. Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of State of Wisconsin Ordinances regulating the use and possession of illicit drugs; Should not prevent a finding that the object is intended for use, or designed 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. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
 - 12. Whether the object is customarily intended for use as drug paraphernalia and the existence and scope of other legitimate uses for the object in the community.
 - 13. Expert testimony concerning its use.

Section 3. Offenses and Penalties

A. Possession of Drug Paraphernalia

It is unlawful for any person to use, or 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 Wisconsin Statutes.

Any person violating this section shall be guilty of a violation and shall be subject to a fine not less than \$100.00, no portion of which shall be suspended.

Violation of the provisions of this ordinance shall constitute grounds for suspension or revocation of any business license issued by the Township to a business for the premises or activity from which the violation occurred.

B. Manufacture of Delivery of Drug Paraphernalia

It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be used or is customarily intended to be used to plan, 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 Wisconsin Law.

Any person violating this section shall be guilty of a violation and shall be subject to a fine not less than \$100.00, no portion of which may be suspended.

C. Delivery of Drug Paraphernalia to a Minor

Any person 18 years or over who violates Section 3B by delivering drug paraphernalia to a person under 18 years of age who is at least three (3) years his junior shall be guilty of a special violation and shall be subject to a fine not less than \$100.00, no portion of which may be suspended.

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, when viewed as a whole, is to promote the sale of objects intended for use or customarily intended for use as drug paraphernalia.

Any person violating this section shall be guilty of a violation and shall be subject to a fine not less than \$100.00, no portion of which may be suspended.

E. 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

applications 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.

F. Takes Effect

This ordinance shall take effect upon passage and publication of public notice.

Motion made to adopt Drug Paraphernalia Ordinance by: Randy Strese, Seconded by Shawn Rachner

Vote:

Ayes: 3

Nays: 0