

CITY OF AURORA
ORDINANCE NO. 64, 1st SERIES

An ordinance of the City of Aurora, Minnesota, amending City Code, Title IX, Chapter 90: NUISANCES, SANITATION AND ENVIRONMENT, Section 90.05, by adding provisions relating to DRUG PARAPHERNALIA and by adopting by reference City Code Chapter 90 and Section 90.05, which among other things contain penalty provisions.

The City Council of the City of Aurora, Minnesota ordains:

SECTION 90.05. DRUG PARAPHERNALIA.

(A) *Purpose.* The purpose of this section is to regulate the possession, sale, manufacture, advertisement, and delivery of drug paraphernalia and thereby deter the use of controlled substances in the city. This section is not intended to allow what the Minnesota Statutes prohibit nor to prohibit what the Minnesota Statutes expressly allow.

(B) *Definitions.*

The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

DRUG PARAPHERNALIA. 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, 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 Minnesota Statutes or this section. It includes, but is not limited to:

- (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (b) Kits used, intended for use, or designed of use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (d) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;
- (e) Scales and balances used, intended for use, or designed for use in a weighing or measuring controlled substances;
- (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;
- (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
- (k) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parentally injected controlled substances into the human body;

- (l) Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 2. Water pipes;
 3. Carburetion tubes and devices;
 4. Smoking and carburetion masks;
 5. Roach clips, meaning objects used to hold burning material such as a marijuana cigarette which has become too small or too short to be held in the hand;
 6. Miniature cocaine spoons and cocaine vials;
 7. Chamber pipes;
 8. Carburetor pipes;
 9. Electric pipes;
 10. Air-driven pipes;
 11. Chillums;
 12. Bongs;
 13. Ice pipes or chillers.

(C) *Evidence.* 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 anyone in control of the object under 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 section;
- 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 anyone in control of the object to deliver it to persons who he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this section; the innocence of an owner or anyone in control of the object as to a direct violation of this Section 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 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.

(D) *Offenses.*

- 1) *Possession.* 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 section.
- 2) *Manufacture, sale or delivery.* It is unlawful for any person to sell, 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 section.

- 3) *Minors.* Any person 18 years of age or over who violates division (D)(2) above by selling or delivering drug paraphernalia and said sale or delivery is to a person who is under 18 years of age and at least 3 years his or her junior shall also be violating this paragraph as well as division
- 4) *Advertisement.* 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 propose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(E) *Penalty.* Violation of any provision of this section shall be a misdemeanor and each day of violation shall be considered a separate offense.

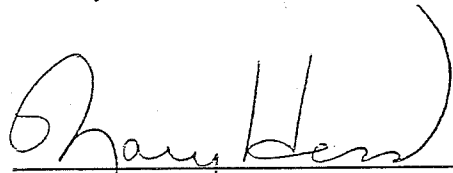
(F) *Civil forfeiture.* All drug paraphernalia as defined in this section are subject to forfeiture, subject to the provisions set forth in Minnesota Statutes.

(G) *Severability.* If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are severable.

(H) *Violation a misdemeanor.* Every person violates a section, subdivision, paragraph or provision of this chapter when they perform an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor. (Penalty, see 90.99)

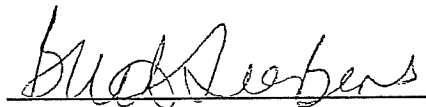
This ordinance shall be in full force and effect from and forty-five calendar (45) days after its passage and approval and publication as provided by law.

Passed and adopted by the City Council of the City of Aurora, County of St. Louis, State of Minnesota on the 20th day of September, 2013.



Mary Hess
Mayor

ATTEST:



Britt See-Benes
Administrator/Clerk/Treasurer

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