

Ordinance No. 1774

AN ORDINANCE relating to regulating the display of drug paraphernalia; prohibiting its display to minors; and providing for enforcement and penalties.

WHEREAS, the City recognizes that drug paraphernalia that is designed and marketed for the consumption of marijuana and controlled substances is currently being displayed in a manner that is open to view to minors;

AND WHEREAS, the existence of legitimate uses for an object does preclude categorization of that object as drug paraphernalia;

AND WHEREAS, the display of drug paraphernalia in establishments open to minors symbolizes a public tolerance for illegal underage use of marijuana and other illegal controlled substances;

AND WHEREAS, the City of Washougal believes that restricting the display of certain drug paraphernalia to minors will both address the continuing problem of underage use of marijuana and other illegal controlled substances in the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WASHOUGAL, WASHINGTON as follows:

Section I

That a new Chapter 9.102 to the Washougal Municipal Code, "Display of Drug Paraphernalia", is hereby adopted as outlined on the attached Exhibit "A".

Section II

This ordinance shall take effect on March 23, 2015 after its passage, posting and publication according to law.


PASSED by the Council for the City of Washougal at a regular meeting this 23rd day of February, 2015.

City of Washougal, Washington



Mayor

ATTEST:



Finance Director / City Clerk

APPROVED AS TO FORM:



City Attorney

Chapter 9.102**DISPLAY OF DRUG PARAPHERNALIA****9.102.010 Definitions****9.102.020 Display of Drug Paraphernalia****9.102.030 Enforcement**

As used in this chapter, the following terms shall mean the following:

- A. "Business" means any location, whether indoors or outdoors, at which merchandise is offered for sale.
- B. "Controlled substance" means those controlled substances set forth in the Revised Code of Washington (RCW 69.50) or the United States Code (21 USC §§ 801-971) as such now exist or may hereafter be amended.
- C. "Display" means to show to a patron or to place the drug paraphernalia in a manner so that it is within open view by a member of the public.
- D. "Drug paraphernalia" for the purposes of this chapter means, but is not limited to:
 - 1. Any item, whether useful for non-drug related purposes or not, which is displayed, grouped with other items, advertised, or promoted in a manner to reasonably suggest its usefulness in inhaling, injecting or ingesting of marijuana, hashish, hashish oil, cocaine, methamphetamine or any controlled substance;
 - 2. Any item, whether useful for non-drug related purposes or not, which is designed, decorated, adorned, packaged or displayed in a manner to reasonably suggest its usefulness in inhaling, injecting or ingesting or marijuana, hashish, hashish oil, cocaine, methamphetamine or any controlled substance;
 - 3. Any item defined as drug paraphernalia as set forth in the Revised Code of Washington (RCW 69.50) or the United States Code (21 USC §§ 801-971) as such now exist or may hereafter be amended;

4. Isomerization devices used, intended for use, or primarily designed for use in increasing the potency of marijuana, hashish, hashish oil or any species of plant which is an unlawful drug or controlled substance;

5. Testing equipment used, intended for use, or primarily designed for use in identifying or analyzing the strength, effectiveness, or purity of unlawful drugs or controlled substances;

6. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or primarily designed for use in compounding unlawful drugs or a controlled substance;

7. Any objects used, intended for use or primarily designed for use in ingesting, inhaling or otherwise introducing marijuana, hashish, hashish oil, cocaine, methamphetamine or any controlled substance 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, including but not limited to, glass tubes commonly marketed as novelty items such as a miniature rose, vase, air freshener or colored marking pens, which, when taken apart, contain a pipe that can be used for smoking or otherwise inhaling controlled substances;

b. Carburetion tubes and devices;

c. Smoking and carburetion masks;

d. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

e. Miniature cocaine spoons, cocaine vials, or any spoon used, intended for use, or primarily designed for ingestion of a controlled substance;

f. Chamber pipes;

g. Carburetor pipes;

h. Electric pipes;

i. Air driven pipes;

j. Chillums;

k. Bongs;

l. Ice pipes or chillers;

- m. Wired cigarette papers;
- n. Cocaine freebase kit;
- o. A Device constructed so as to prevent the escape of smoke into the air and to channel smoke into a chamber where it may be accumulated to permit inhalation or ingestion of larger quantities of smoke than would otherwise be possible;
- p. A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a "buzz bomb" or otherwise;
- q. A canister, container or other device with a tube, nozzle, or other similar arrangement attached thereto so constructed as to permit the forcing of smoke accumulated therein to the user's lungs, under pressure, whether the device is known as a "power hitter" or otherwise;

8. In determining whether an object is "drug paraphernalia" a court, hearing officer or other authority may consider the following in addition to the foregoing and all other logically relevant factors:

- a. Statement by an owner or by anyone in control of the object concerning its use.
- b. Prior convictions, if any, of an owner, or of anyone in control of the object, relating to any controlled substance for the limited purpose of demonstrating knowledge or lack of mistake regarding the object's use of drug paraphernalia, and after determining on the record that the probative value of such outweighs prejudicial impact.
- c. Proximity of the object to controlled substances.
- d. Existence of any residue of controlled substances on the object.
- e. Direct or circumstantial evidence of the intent of an owner, or if anyone in control of the object, to deliver to persons whom he or she knows, or reasonably should know, intend to use the object to facilitate a violation of the Washougal Municipal code, the laws of the State of Washington, or the laws of the United States relating to controlled substances.
- f. Descriptive materials or instructions, written or oral, accompanying the object, which explain or depict its use.
- g. National and local advertising concerning its use.

h. The manner in which the object is displayed for sale, including its proximity to other objects falling within the definition of drug paraphernalia.

i. The existence and scope of legitimate uses for the object in the community.

j. Expert testimony concerning its use, including testimony from law enforcement personnel regarding their knowledge and experience concerning its use.

E. "Person" means a natural person or any firm, partnership, association, corporation or cooperative association.

F. "Primarily designed for" or "marked for" in this section means a device which has been fabricated, constructed, altered, adjusted, packaged, labeled or marked especially for use in the smoking, ingestion or consumption of marijuana, hashish, hashish oil, cocaine, methamphetamine, or any controlled substance, and is peculiarly adapted to such purposes by virtue of a distinctive feature, combination of features, packaging or labeling associated with drug paraphernalia, notwithstanding the fact that it might also be possible to use such device for some other purpose.

9.102.020 Display of Drug Paraphernalia

No person shall display in any business located within the City of Washougal any drug paraphernalia in any manner so that it is open to viewing by a minor. It is not a violation of this section to display drug paraphernalia in a business, separate room or enclosure to which entry by minors is prohibited. The entry of each business, separate room or enclosure to which the entry by minors is prohibited shall be posted with a sign that is conspicuously visible notifying the public that minors are excluded.

9.102.030 Enforcement

a. Violation of this chapter shall be a civil infraction. A violation shall be subject to a penalty of \$ 250.00; the second violation shall be subject to a a penalty of \$ 500.00 and on a subsequent violation within a 2 year period shall be subject to a penalty of \$ 1,000.00.

b. Citations for violation of this chapter may be issued by any member of the Washougal Police Department and/or a Washougal Code Enforcement Officer.