

**AMENDING SECTION 11-2-11 OF THE CODE OF ORDINANCES**

Section 11-2-11 of the Code of Ordinances of the City of Peshtigo, is amended to provide as follows:

**SEC. 11-2-11 POSSESSION, MANUFACTURE AND DELIVERY OF CONTROLLED SUBSTANCES OR DRUG PARAPHERNALIA**

- (a) **Controlled Substances.** It shall be unlawful for any person to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 161 of the Wisconsin Statutes.
- (b) **Possession of Marijuana.** No person shall possess any amount of Marijuana, tetrahydrocannabinol or any derivative thereof, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a licensed physician or pharmacist for a valid medical purpose.
- (c) **Definition.** In this Section, “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, selling, distributing, delivering, 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, as defined in Ch. 161, Wis. Stats., in violation of this Section. 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 a controlled substance or from which a controlled substance can be derived.
  - (2) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, 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 marijuana.
  - (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or

designed for use, in compounding controlled substances.

- (9) Capsules, balloons, envelopes or other containers used, intended for use, or designed for use, in packaging small quantities of 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, or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
- (12) 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, including, but not limited to:
  - 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. 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;
  - 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.

(d) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of such other considerations a court may deem relevant;


- (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 City, 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 substance 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 the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

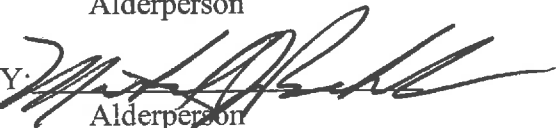
- (7) Oral or written instructions provided with the object concerning its use.
- (8) Descriptive materials accompanying the object which explain or depict its use.
- (9) National and local advertising concerning its use.
- (10) The manner in which the object is displayed for sale.
- (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
- (12) The existence and scope of legitimate uses for the object in the community.
- (13) Expert testimony concerning its use.

(e) **Prohibited Uses.**

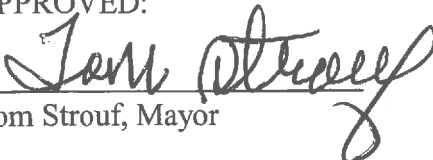
- (1) **Possession of Drug Paraphernalia.** No person may use, or possess with the sole intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Subsection.
- (2) **Manufacture or Delivery of Drug Paraphernalia.** No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be solely 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 Subsection.

Adopted this 1<sup>st</sup> day of Dec, 2009

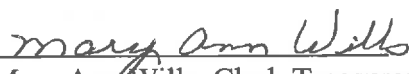
OFFERED BY:   
Aldersperson

SECONDED BY:   
Aldersperson

APPROVED:

  
Tom Strouf, Mayor

ATTEST:

  
Mary Ann Wills, Clerk Treasurer