

Ordinance No. 00174

[\(Council Minutes 98/06/15\)](#) ORDINANCE NO. 174

AN ORDINANCE of the City Council of the City of Lakewood, Washington amending Section 9.22.020 of the Lakewood Municipal Code and creating a new Section 9.22.030 of the Lakewood Municipal Code relating to crimes and infractions involving possessing, giving or selling drug paraphernalia

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WHEREAS, among the offenses included in the City's penal code are offenses addressing controlled offenses and drug paraphernalia; and,

WHEREAS, the initial offense dealing with prohibitions relative to drug paraphernalia in the City Code was patterned after state statute, RCW 69.50.412; and,

WHEREAS, the offense included an "intent" element that needed to be proved for conviction, so that the proof needed to be that the defendant not only possessed drug paraphernalia, but also that the defendant possessed the drug paraphernalia with intent that it be used for an illegal purpose; and,

WHEREAS, that "intent " element has presented an obstacle to the prosecution of a number of drug paraphernalia offenses, since unless there are specific facts in a case that show something to establish "intent," the case may not be able to be successfully prosecuted; and,

WHEREAS, in its most recent legislative session, the Washington State Legislature adopted a bill, Engrossed House Bill 2772, that established a new infraction prohibiting drug paraphernalia, but this new infraction does not include the intent element; and,

WHEREAS, in order to provide consistence among the provisions of state law and the City Code, it is appropriate that the City Code include such a new infraction, and specify the classification of the criminal offense, to distinguish it from the new infraction; and,

WHEREAS, it is also appropriate to add to the City Code provisions dealing with a separate method of violating the law (criminal offence) dealing with providing drug paraphernalia to younger people.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

SECTION ONE That Section 9.22.020 of the Lakewood Municipal Code is amended to reads as follows:

9.22.020 Drug paraphernalia prohibited.

A. It is unlawful for any person to use drug paraphernalia, as that term is defined in RCW 69.50.102, or as the term is understood and or used colloquially, 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. Any person who violates this subsection is guilty of a misdemeanor.

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B. It is unlawful for any person to deliver, possess with intent to deliver or to 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. Any person who violates this subsection is guilty of a misdemeanor.

C. Any person eighteen years of age or over who violates the provisions of paragraph B of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor.

Any person eighteen years of age or over who violates the provisions of paragraph B of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor. ~~GD~~. It is unlawful 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 subsection is guilty of a misdemeanor. (Ord. 41 ' 1 (part), 1996.)

SECTION TWO That a new Section 9.22.030 of the Lakewood Municipal Code is created to read as follows:

9.22.030 Selling or giving drug paraphernalia.

(1) Every person who sells or gives, or permits to be sold or given to any person any drug paraphernalia in any form commits a class I civil infraction under Chapter 1.48 of the City Code. For purposes of this subsection, "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, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. Drug paraphernalia includes, but is not limited to 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; and

(m) Ice pipes or chillers.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) Nothing in subsection (1) of this section prohibits legal distribution of injection syringe equipment through public health and community based HIV prevention programs.

SECTION THREE That if any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION FOUR That this Ordinance shall be in full force in effect five (5) days after publication of the Ordinance Summary, as provided by law.

ADOPTED by the City Council this 15th day of June, 1998.

CITY OF LAKEWOOD

Attest: Bill Harrison, Mayor

Alice M. Bush, CMC, City Clerk

Approved as to Form:

Daniel B. Heid, City Attorney

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