

TOWN OF GIBRALTAR

ORDINANCE 2022-03

POSSESSION OF DRUG PARAPHERNALIA

Ordinance 2022-03 Identified in the code of ordinances as 10.24 shall repeal and replace any previous ordinance(s) in whole or part, or any other ordinances contradicting to this new ordinance.

The Town Board of Gibraltar, in the County of Door, State of Wisconsin, does hereby ordain as follows:

Purpose - The primary purpose of this ordinance is to prohibit the use and possession of Drug Paraphernalia.

State Statutes Adopted – Authority

The Board of Supervisors of the Town of Gibraltar is granted authority for adopting this ordinance under its general 60.10(2)(c) and 60.22(3), Wisconsin Statutes. The Town Board Adopts this Ordinance under its general village powers authority and 66.1014 of the Wisconsin Statutes, 2917 Act 59.

Definitions

A. "Drug Paraphernalia" means all equipment, products and materials of any kind that are used, designed for use, or primarily intended 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 any of the following:

1. Kits used, designed for use, or primarily intended for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a controlled substance or from which a controlled substance can be derived.
2. Kits used, designed for use, or primarily intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization devices used, designed for use, or primarily intended for use in increasing the potency of any species of plant that is a controlled substance.
4. Testing equipment used, designed for use, or primarily intended for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances.
5. Scales and balances used, designed for use, or primarily intended for use in weighing or measuring controlled substances.
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, designed for use, or primarily intended for use in cutting controlled substances.
7. Separation gins and sifters used, designed for use, or primarily 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, designed for use or primarily intended for use in compounding-controlled substances.

9. Capsules, balloons, envelopes, and other containers used, designed for use, or primarily intended for use in packaging small quantities of controlled substances.

10. Containers and other objects used, designed for use, or primarily intended for use in storing or concealing controlled substances.

11. Objects used, designed for use, or primarily intended for use in ingesting, possession of drug paraphernalia, inhaling or 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 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 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. Chilams.
- l. Bonges.
- m. Ice Pipes or chillers.

B. "Drug paraphernalia" excludes:

1. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body.

2. Any items, including pipes, papers, and accessories, that are designed for use or primarily intended for use with tobacco products.

C. "Primarily" means chiefly or mainly.

D. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other legally relevant factors, the factors listed in Wisconsin Statutes § 161.572.

General Provisions

A. It shall be a violation of this ordinance to use or possess with the primary 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.

B. It shall be a violation of this ordinance to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily 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.

C. It shall be a violation of this ordinance for any person 18 years of age or over to deliver drug paraphernalia to a person under 18 years of age who is at least 3 years younger than the violator.

Penalty

Any person found guilty of violating this ordinance or any part of this ordinance shall be subject to a forfeiture of not less than \$50.00, nor more than \$500.00, together with costs of prosecution. Failure to make payment of such forfeiture and costs of prosecution shall subject the individual to imprisonment in the County Jail until said forfeiture is paid, but not to exceed thirty (30) days.

Enforcement

Enforcement shall be by citation.

Possession of Drug Paraphernalia, Deposits. Deposits shall be made in cash, money orders, or certified check to the Clerk of Door County Circuit Court who shall provide a receipt to the other office and the amount of the forfeiture schedule shall be as stated above or such amount that the Circuit Court of Door County hereafter affixes.

Any person, firm, or corporation, violating any of the subsections of this ordinance, may stipulate to the guilt or no contest and may pay to the Clerk of Court, a bond according to a schedule prescribed by the Circuit Court of Door County, which is presently set forth above. Such stipulation will make it unnecessary for the subject charged to appear in court and will act as a basis for the court to enter judgment and order forfeiture of the bond. Forfeitures, penalty assessments, costs and fees shall be disbursed as provided in Wis. Stat. § 66.12.

Adoption of this ordinance does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter. And issuance of a forfeiture here under shall not preclude the Town or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation, or order.

Reference to Statutes

Reference to specific statutory sections whenever used in this ordinance, shall mean Wisconsin Statutes as amended, modified, repealed or otherwise altered by the State Legislature.

Severability

If any of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such a decision shall not affect the validity of any other provisions of this ordinance.