

## **DRUG PARAPHERNALIA ORDINANCE**

### **Town of Lebanon**

#### **1. Definitions**

a. The term **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 in violation of Maine Statutes Annotated, Title 17-A, Section 1101 et seq. 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, 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 marihuana;

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes and 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 and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body..

(12) 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 materials 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;

(m) Ice pipes or chillers;

b. 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 of anyone in control of the object under any State or Federal law relating to any controlled substances;

(3) The proximity of the object, in time and space, to a direct violation of 17-A M.R.S.A. 1101 et seq.

(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 the owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of 17-A .R.S.A. 1101 et seq. the innocence of an owner, or of anyone in control of the objects as to a direct violation of 17-A M.R.S.A. 1101 et seq. 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) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(12) The existence and scope of legitimate uses for the object in the community;

(13) Expert testimony concerning its use.

## **II. Offenses and Penalties**

### **a. Possession of Drug Paraphernalia.**

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 substances in violation of 17-A MR.S.A. 1101 et seq. Any person violating this section shall be guilty of a violation and shall be subject to a fine of

\$100.00 dollars, no portion of which may be suspended (shall be guilty of a crime and upon conviction may be imprisoned for not more than \_\_\_\_ and fined not more than \_\_\_\_).

**b. Manufacture or Delivery of Drug Paraphernalia.**

It is unlawful for any person to 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 17-A M.R.S.A. Any person violating this section shall be guilty of violation and shall be subject to a fine of \$100.00 dollars, no portion of which may be suspended (shall be guilty of a crime and upon conviction may be imprisoned for not more than \_\_\_\_\_ and fined not more than \_\_\_\_\_).

**c. Delivery of Drug Paraphernalia to a Minor.**

Any person 18 years of age or over who violates Section b. by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years his junior shall be guilty of a special violation and shall be subject to a fine of \$100.00 dollars, no portion of which may be suspended (shall be guilty of a crime and upon conviction may be imprisoned for not more than \_\_\_\_\_ and fined not more than \_\_\_\_\_).

**d. Advertisement of Drug Paraphernalia.**

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 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 violating this section shall be guilty of a violation and shall be subject to a fine of \$100.00 dollars, no portion of which may be suspended (shall be guilty of a crime and upon conviction may be imprisoned for not more than \_\_\_\_\_ and fined not more than \_\_\_\_\_).

**III. Severability.**

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable."

**IV. Takes Effect:**

This ordinance shall take effect upon enactment.

*Adopted March 14, 1981*

*A True Copy Attest:*

*Lorraine Patch*

*Town Clerk, Lebanon, Maine*

