

ORDINANCE NO. 2003-1154
CITY OF SHERWOOD, OREGON

AN ORDINANCE OF THE SHERWOOD CITY COUNCIL CREATING A NEW CHAPTER (9.50) IN THE SHERWOOD MUNICIPAL CODE MAKING THE POSSESSION, MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA UNLAWFUL; CREATING DEFINITIONS AND PENALITIES FOR VIOLATION OF SAID PROHIBITIONS; DECLARING AN EMERGENCY.

WHEREAS, at the present time certain items designed or marketed for use with controlled substances may be marketed or sold within Sherwood and the Council believes the ban of said sales within the City is appropriate and will enhance the health, safety and welfare of the City and its citizens;

NOW THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1. A new Chapter 9.50 is hereby created in the Sherwood Municipal Code which Chapter is to read as follows:

9.50.010. Definitions.

- a. "Controlled substance" means a drug or its immediate precursor classified in Schedules I through V under the Federal Controlled Substances Act (21 U.S.C. §§ 811-812) as the same may be modified consistent with ORS 475.035.
- b. "Deliver" or "delivery" means the actual, constructive or attempted transfer (other than by administering or dispensing) from one person to another of a controlled substance, regardless of whether there is an agency relationship.
- c. "Drug paraphernalia" means all equipment, products and materials of any kind used or intended 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 or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act of Oregon (ORS 475.005 to 475.285 and 475.991 to 475.995). Although not an exclusive list, included within the phrase "drug paraphernalia" as used in this Chapter, are the following:
 1. Kits used, or intended 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 or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
 3. Isomerization devices used, intended or designed for use in increasing the potency of any species of plant which is a controlled substance;
 4. Testing equipment used, intended or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
 5. Scales and balances used, intended 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, or intended 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, or intended or designed for use in compounding controlled substances;
 9. Capsules, balloons, envelopes and other containers used, or intended or designed for use in packaging small quantities or controlled substances;
 10. Containers and other objects used, intended or designed for use in storing or concealing controlled substances;
 11. Hypodermic syringes, needles and other objects used, intended for use in storing or concealing controlled substances;
 12. Objects used, or intended or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (ii) Water pipes;
 - (iii) Carburetion tubes and devices;
 - (iv) Smoking and carburetion masks;
 - (v) Roach clips: meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - (vi) Chamber pipes;
 - (vii) Carburetor pipes;
 - (viii) Electric pipes;
 - (ix) Air-driven pipes;
 - (x) Chillums;
 - (xi) Bongs; and
 - (xii) Ice pipes or chillers.
- d. "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

9.50.015. Factors to be Considered.

In determining whether an object may be drug paraphernalia, the municipal court, other judicial entity or person should consider (in addition to other logically relevant factors) the following:

- a. Statements 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, under any State or Federal law relating to any controlled substance;
- c. The proximity of the object to controlled substances;
- d. The existence of any residue of controlled substances on the object;
- e. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows intend to use the object to facilitate a violation of federal or state law relating to controlled substances;
- f. Instructions, oral or written, provided with the object concerning its use;
- g. Descriptive materials accompanying the object which explain or depict its use;
- h. National and local advertising concerning its use;

- i. The manner in which the object is displayed for sale;
- j. Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- k. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- l. The existence and scope of legitimate uses for the object in the community; and
- m. Expert testimony concerning its use.

9.50.020. 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 substance.
- 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 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.
- c. Violation of subsections 9.50.020(a) or 9.50.020(b) shall be a class A violation with a fine of the statutory maximum provided under ORS 153.018. Citations shall be issued and court procedures followed consistent with ORS 153.030 to 153.121.

9.50.025. Nuisance.

- d. Drug paraphernalia are hereby declared to be public nuisances and any peace officer may seize any such paraphernalia and it shall be held subject to the order of municipal court as to its disposition.
- e. Whenever it appears to the court that drug paraphernalia has been possessed in violation of this ordinance, the court may order the Chief of Police to destroy the paraphernalia.

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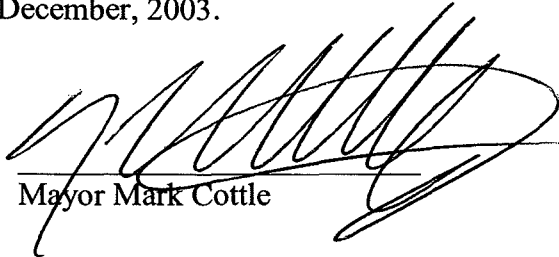
9.50.030. Severability.

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.

Section 2. This Ordinance being a regulatory device deemed by the Sherwood Police to be a necessary additional tool for their use in the interdiction of drug activity in Sherwood, the Sherwood City Council hereby declares an emergency to exist and the terms of this Ordinance shall be immediately effective upon its passage by the Council and approval by the Mayor consistent with the terms of Section 9.6 of the Sherwood City Charter.

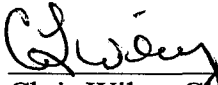
Passed by the City Council this 9th day of December, 2003.

Approved by the Mayor this 9th day of December, 2003.



Mayor Mark Cottle

Attest:



Chris Wiley, City Recorder

	AYE	NAY
Weislogel	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Heironimus	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Durrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fox	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Cottle	<input checked="" type="checkbox"/>	<input type="checkbox"/>