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CITY OF HOMER  
HOMER, ALASKA  
ORDINANCE 82-19

AN ORDINANCE PROHIBITING THE SALE OF  
DRUG PARAPHERNALIA WITHIN THE CITY OF  
HOMER; FURTHER PROVIDING FOR PENALTIES  
AND FOR INCLUSION IN THE HOMER MUNICIPAL  
CODE.

WHEREAS, drug abuse is recognized to be a problem within  
the City of Homer,

AND WHEREAS, the ready availability of equipment and  
devices for the use of controlled substances, generally  
known as "drug paraphernalia" is a factor which contributes  
to the drug abuse problem,

AND WHEREAS, it is in the interest of the public health,  
safety and welfare to curtail or limit the availability of  
such drug paraphernalia,

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

Section 1. The following Chapter shall be added to  
Title 6, PUBLIC PEACE, MORALS AND WELFARE, of the Homer  
Municipal Code:

Chapter 6.12  
DRUG ABUSE AND PARAPHERNALIA

Sections:

- 6.12.010 Definitions
- 6.12.020 Sale of Drug Paraphernalia Unlawful
- 6.12.030 Penalties
- 6.12.040 Severability

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Section 6.12.010. Definitions. As used in this chapter,  
the following terms shall have the meanings as defined  
herein.

- a. "Controlled Substance" means a narcotic drug as defined in AS 17.10.230(13) and as supplemented by any regulations adopted under AS 17.10; and a depressant, hallucinogenic, or stimulant drug as defined in AS 17.12.150(3) and as supplemented by any regulations adopted under AS 17.12; and shall also include marijuana, hashish and cocaine.
  
- b. "Drug Paraphernalia" means all items, equipment, devices, products and materials of any kind which are used, or 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 as defined herein. Drug paraphernalia includes, but is not limited to:
  - 1. Kits used or intended 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 or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
  - 3. Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;
  - 4. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances except for use by or under the direction of law enforcement agencies or medical research or treatment facilities;
  - 5. Scales and balances used or intended for use in weighing or measuring controlled substances;
  - 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled substances;
  - 7. Separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

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- 1 8. Blenders, bowls, containers, spoons and
- 2 mixing devices used or intended for use in
- 3 compounding controlled substances;
- 4 9. Capsules, balloons, envelopes and other
- 5 containers used, intended for use, or designed
- 6 for use in packaging small quantities of
- 7 controlled substances;
- 8 10. Containers and other objects used or intended
- 9 for use in storing or concealing controlled
- 10 substances;
- 11 11. Hypodermic syringes, needles and other
- 12 objects used or intended for use in paren-
- 13 terally injecting controlled substances into
- 14 the human body;
- 15 12. Objects used or intended for use in
- 16 injecting, inhaling, or otherwise introducing
- 17 marijuana, cocaine, hashish, or hashish oil
- 18 into the human body, such as:
- 19 a. Metal, wooden, acrylic, glass, stone,
- 20 plastic, or ceramic pipes with or
- 21 without screens, permanent screens,
- 22 hashish heads, or punctured metal bowls;
- 23 b. Water pipes;
- 24 c. Carburetion tubes and devices;
- 25 d. Smoking and carburetion masks;
- 26 e. Roach clips: meaning objects used to
- 27 hold burning material, such as a mari-
- 28 juana cigarette, that has become too
- 29 small or too short to be held in the
- 30 hand;
- 31 f. Miniature cocaine spoons, and cocaine
- 32 vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs;
- m. Ice pipes or chillers;

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:

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1. Statements by the manufacturer, 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 substance;
  3. The proximity of the object, in time and space, to a direct violation of AS 17.10 or AS 17.12;
  4. The proximity of the object to controlled substance;
  5. The existence of any residue of controlled substances on the object;
  6. Direct or circumstantial evidence of the intent of an 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 AS 17.10 or AS 17.12; the innocence of an owner, or of anyone in control of the object, as to a direct violation of AS 17.10 or AS 17.12 shall not prevent a finding that the object is intended 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. 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;
  12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
  13. The existence and scope of legitimate uses for the object in the community;
  14. Expert testimony concerning its use.
- c. "Sell" or "Sale" means the commercial transfer of ownership, possession or use of drug paraphernalia in the regular course of a wholesale or retail business for consideration of any type.

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1           Section 6.12.020. Sale of Drug Paraphernalia Unlawful.

2           It is unlawful for any person to sell, or possess with  
3 intent to sell, drug paraphernalia, knowing that it will be  
4 used to plant, propagate, cultivate, grow, harvest, manufacture,  
5 compound, convert, produce, process, prepare, test, analyze,  
6 pack, repack, store, contain, conceal, inject, ingest,  
7 inhale, or otherwise introduce into the human body a controlled  
8 substance, except as specifically authorized and permitted  
9 under the provisions of AS Title 17 and by such rules and  
10 regulations as are adopted pursuant thereto.

11           Section 6.12.030. Penalties.

12           a. Any person who violates any provision of this  
13 chapter shall be punished under the general penalty provision  
14 of the Homer Municipal Code, or be subject to injunctive  
15 relief to restrain the person from continuing the violation  
16 or threat of violation, or both injunctive relief and a  
17 civil penalty. Upon application for injunctive relief and a  
18 finding that a person is violating or threatening to violate  
19 any provision of this chapter, the Superior Court shall  
20 grant injunctive relief to restrain the violation.


21           b. Any item sold or possessed with the intent to sell  
22 by any person after a court has adjudicated such an item to  
23 constitute drug paraphernalia as defined by Section 6.12.010  
24 shall be subject to forfeiture of the said paraphernalia to  
25 the City of Homer upon order of the court entered in any  
26 injunction proceedings instituted under the authority of  
27 this section or in a separate forfeiture action instituted  
28 by the City.

29           Section 6.12.040. Severability.

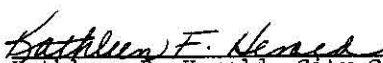
30           If any provision of this chapter or the application  
31 thereof to any person or circumstances is held invalid, the  
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1 invalidity shall not affect other provisions or applications  
2 of the chapter which can be given effect without the invalid  
3 provisions of this chapter and are therefore severable.

4 CITY OF HOMER

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7 ERLE COOPER, Mayor

8 ATTEST:

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11 Kathleen P. Herold, City Clerk

12 First Reading 10-25-82  
13 Public Hearing 11-8-82  
14 Second Reading 11-28-82  
15 Effective Date 11-09-82  
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