

1 **CITY OF HOMER**  
2 **HOMER, ALASKA**

Reynolds

3  
4 **ORDINANCE 16-23**

5  
6 AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA  
7 REPEALING HOMER CITY CODE, CHAPTER 6.12, DRUG ABUSE  
8 AND PARAPHERNALIA.

9  
10 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

11  
12 Section 1. Homer City Code, Chapter 6.12, Drug Abuse and Paraphernalia, is hereby repealed:

13  
14 6.12.010 Definition.

15  
16 As used in this chapter, the following terms shall have the meanings as defined herein:  
17 “Controlled substance” means a drug, substance, or immediate precursor included in  
18 the schedules set out in AS 11.71.140 through 11.71.190, as amended.

19 “Drug paraphernalia” means all items, equipment, devices, products and materials of  
20 any kind which are used, or intended for use, in planting, propagating, cultivating,  
21 growing, harvesting, manufacturing, compounding, converting, producing,  
22 processing, preparing, testing, analyzing, packaging, repackaging, storing, containing,  
23 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human  
24 body a controlled substance as defined herein. Drug paraphernalia includes, but is not  
25 limited to:

- 26 1. Kits used or intended for use in planting, propagating, cultivating, growing,  
27 or harvesting of any species of plant which is a controlled substance or from  
28 which a controlled substance can be derived;
- 29  
30 2. Kits used or intended for use in manufacturing, compounding, converting,  
31 producing, processing, or preparing controlled substances;
- 32  
33 3. Isomerization devices used or intended for use in increasing the potency of  
34 any species of plant which is a controlled substance;
- 35  
36 4. Testing equipment used or intended for use in identifying or in analyzing the  
37 strength, effectiveness or purity of controlled substances except for use by or  
38 under the direction of law enforcement agencies or medical research or  
39 treatment facilities;
- 40  
41 5. Scales and balances used or intended for use in weighing or measuring  
42 controlled substances;

[**Bold and underlined added.** Deleted language stricken through.]

43 ~~6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,~~  
44 ~~dextrose and lactose, used or intended for use in cutting controlled~~  
45 ~~substances;~~

46  
47 ~~7. Separation gins and sifters used or intended for use in removing twigs and~~  
48 ~~seeds from, or in otherwise cleaning or refining, marijuana;~~

49  
50 ~~8. Blenders, bowls, containers, spoons and mixing devices used or intended for~~  
51 ~~use in compounding controlled substances;~~

52  
53 ~~9. Capsules, balloons, envelopes and other containers used, intended for use,~~  
54 ~~or designed for use in packaging small quantities of controlled substances;~~

55  
56 ~~10. Containers and other objects used or intended for use in storing or~~  
57 ~~concealing controlled substances;~~

58  
59 ~~11. Hypodermic syringes, needles and other objects used or intended for use in~~  
60 ~~injecting controlled substances into the human body;~~

61  
62 ~~12. Objects used or intended for use in injecting, inhaling, or otherwise~~  
63 ~~introducing marijuana, cocaine, hashish, or hashish oil into the human body,~~  
64 ~~such as:~~

65  
66 ~~a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or~~  
67 ~~without screens, permanent screens, hashish heads, or punctured~~  
68 ~~metal bowls;~~

69  
70 ~~b. Water pipes;~~

71  
72 ~~c. Carburetion tubes and devices;~~

73  
74 ~~d. Smoking and carburetion masks;~~

75  
76 ~~e. Roach clips, meaning objects used to hold burning material, such as a~~  
77 ~~marijuana cigarette, that has become too small or too short to be held~~  
78 ~~in the hand;~~

79  
80 ~~f. Miniature cocaine spoons, and cocaine vials;~~

81  
82 ~~g. Chamber pipes;~~

83  
84 ~~h. Carburetor pipes;~~

**[Bold and underlined added. Deleted language stricken through.]**

- 85 i. Electric pipes;
- 86
- 87 j. Air driven pipes;
- 88
- 89 k. Chillums;
- 90
- 91 l. Bongs;
- 92
- 93 m. Ice pipes or chillers;
- 94

95 In determining whether an object is drug paraphernalia, a court or other authority  
96 should consider, in addition to all other logically relevant factors, the following:

- 97 i. Statements by the manufacturer, owner or by anyone in control of the object  
98 concerning its use;
- 99
- 100
- 101 ii. Prior convictions, if any, of an owner, or of anyone in control of the object,  
102 under any State or Federal law relating to any controlled substance;
- 103
- 104 iii. The proximity of the object, in time and space, to a direct violation of AS  
105 11.71.010 through 11.71.060, as amended;
- 106
- 107 iv. The proximity of the object to controlled substance;
- 108
- 109 v. The existence of any residue of controlled substances on the object;
- 110
- 111 vi. Direct or circumstantial evidence of the intent of an owner, or of anyone in  
112 control of the object, to deliver it to persons who he knows, or should  
113 reasonably know, intend to use the object to facilitate a violation of AS  
114 11.71.010 through 11.71.060, as amended; the innocence of an owner, or of  
115 anyone in control of the object, as to a direct violation of AS 11.71.010 through  
116 11.71.060, as amended, shall not prevent a finding that the object is intended  
117 for use as drug paraphernalia;
- 118
- 119 vii. Instructions, oral or written, provided with the object concerning its use;
- 120
- 121 viii. Descriptive materials accompanying the object which explain or depict its  
122 use;
- 123
- 124 ix. National and local advertising concerning its use;
- 125
- 126 x. The manner in which the object is displayed for sale;

**[Bold and underlined added. Deleted language stricken through.]**

- 127 xi. Whether the owner, or anyone in control of the object, is a legitimate  
128 supplier of like or related items to the community, such as a licensed  
129 distributor or dealer of tobacco products;  
130  
131 xii. Direct or circumstantial evidence of the ratio of sales of the object(s) to the  
132 total sales of the business enterprise;  
133  
134 xiii. The existence and scope of legitimate uses for the object in the community;  
135  
136 xiv. Expert testimony concerning its use.

137 ~~“Sell” or “sale” means the commercial transfer of ownership, possession or use of~~  
138 ~~drug paraphernalia in the regular course of a wholesale or retail business for~~  
139 ~~consideration of any type.~~

140  
141  
142 6.12.020 Sale of drug paraphernalia unlawful.

143  
144 It is unlawful for any person to sell, or possess with intent to sell, drug paraphernalia,  
145 knowing that it will be used to plant, propagate, cultivate, grow, harvest,  
146 manufacture, compound, convert, produce, process, prepare, test, analyze, pack,  
147 repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the  
148 human body a controlled substance, except as specifically authorized and permitted  
149 under the provisions of AS Title 17 and by such rules and regulations as are adopted  
150 pursuant thereto.

151  
152 6.12.030 Penalties.

153  
154 a. Any person who violates any provision of this chapter shall be punished under the  
155 general penalty provision of the Homer City Code, or be subject to injunctive relief to  
156 restrain the person from continuing the violation or threat of violation, or both  
157 injunctive relief and a civil penalty. Upon application for injunctive relief and a finding  
158 that a person is violating or threatening to violate any provision of this chapter, the  
159 Superior Court shall grant injunctive relief to restrain the violation.

160  
161 b. Any item sold or possessed with the intent to sell by any person after a court has  
162 adjudicated such an item to constitute drug paraphernalia as defined by HCC 6.12.010  
163 shall be subject to forfeiture of the paraphernalia to the City upon order of the court  
164 entered in any injunction proceedings instituted under the authority of this section or  
165 in a separate forfeiture action instituted by the City.

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