

DATE 8-5, 09

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ATTACH-
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REVIEWED BY

[REDACTED]
RBT

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PREPARED BY

CITY ATTORNEYS OFFICE

[REDACTED]
RBT

AN ORDINANCE AMENDING CHAPTER 20, OFFENSES AND MISCELLANEOUS PROVISIONS OF THE CODE OF THE CITY OF ROCK HILL TO ADD PROVISIONS REGULATING DRUG PARAPHERNALIA.

BE IT ORDAINED by the Governing Body of the City of Rock Hill in Council assembled:

SECTION 1. That this ordinance is being adopted in order to effect proper compliance with the provisions of the Home Rule Act of 1975, now South Carolina Code of Laws for 1976, Section 5-7-30 and Section 5-7-260 and Section 2-48 and Section 2-96 of the Code of the City of Rock Hill.

SECTION 2. That this Ordinance was adopted by the Rock Hill City Council by a majority vote and applicable public hearing requirements.

SECTION 3. That the Proposed Amendment to **Chapter 20, Offenses and Miscellaneous Provisions**, be and the same is hereby amended by adding **Article IX. Drug Paraphernalia, Section 20-280 through Section 20-295** as follows:

See Exhibit A attached hereto.

SECTION 4. That all ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5. That this Ordinance shall be and become finally binding after receiving first and second readings given in the manner required by law.

AGENDA ITEM 7 C

DONE AND RATIFIED in Council assembled on this the ____ day of _____, 2009.

A. Douglas Echols, Jr., Mayor

Kevin H. Sutton, Mayor Pro Tempore

Kathy S. Pender, Councilmember

James C. Reno, Jr., Councilmember

Osbey Roddey, Councilmember

Susie B. Hinton, Councilmember

John P. Gettys, Jr., Councilmember

ATTEST:

David B. Vehaun
Municipal Clerk

EXHIBIT A

Article IX. Drug Paraphernalia

Sec. 20-280. Definitions.

As used in this article, the following terms shall have the meanings indicated in this section:

Deliver or delivery means the actual, constructive, or attempted transfer of a controlled drug or paraphernalia whether or not there exists an agency relationship.

Paraphernalia means any instrument, device, article or contrivance used, designed for use, or intended for use in ingesting, smoking, administering, or preparing any illegal narcotic, and shall not include cigarette papers and tobacco pipes, but shall include, but not be limited to:

- (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic marijuana or hashish pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
- (2) Water pipes designed for use or intended for use with marijuana, hashish, hashish oil or cocaine.
- (3) Carburetion tubes and devices.
- (4) Smoking and carburetion masks.
- (5) Roach clips.
- (6) Separation gins designed for use or intended for use in cleaning marijuana.
- (7) Cocaine spoons and vials.
- (8) Chamber pipes.
- (9) Carburetor pipes.
- (10) Electric pipes.
- (11) Air-driven pipes.
- (12) Chillums.

- (13) Bongs.
- (14) Ice pipes or chillers.
- (15) Syringes.
- (16) Heroin spoons.
- (17) Bottle caps.
- (18) Scales for measuring the illegal narcotic

Sec. 20-281. Advertisement, sale, etc., prohibited; evidence of violations.

(a) It shall be unlawful for any person to advertise for sale, manufacture, possess, sell or deliver, or to possess with the intent to sell or deliver paraphernalia.

(b) In determining whether an object is paraphernalia, a court or other authority shall 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) The proximity of the object to controlled substances;

(3) The existence of any residue of controlled substances on the object;

(4) 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, or should reasonably know, intend to use the object to facilitate a violation of law; the innocence of an owner, or of anyone in control of the object, as to a direct violation of law shall not prevent a finding that the object is intended for use, or designated for use as drug paraphernalia;

(5) Instructions, oral or written, provided with the object concerning its use;

(6) Descriptive materials accompanying the object which explain or depict its use;

(7) Local advertising concerning its use;

(8) The manner in which the object is displayed for sale;

(9) 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;

(10) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

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

(12) Expert testimony concerning its use.

Sec. 20-282. Penalty.

Any person who violates any provisions of this chapter for which no penalty is otherwise provided shall be subject to the penalty in Section 1-11.

Secs. 20-283 - 20-295. Reserved.