

## CHAPTER FOURTEEN

### MARIJUANA AND NARCOTIC PARAPHERNALIA POSSESSION ORDINANCE

#### **Section 1. Purpose**

The purpose of this ordinance is to provide the Vergennes Police Department with a mechanism by which they can levy a fine on a possessor of marijuana or narcotics paraphernalia who had used or intended to use, or promoted 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 regulated drug in violation of Chapter 84 of Title 18 of the Vermont Statutes Annotated. The term “Drug Paraphernalia” does not include needles and syringes distributed or possessed as part of an organized community-based needle exchange program.

#### **Section 2. Definitions**

The term “marijuana/drug paraphernalia” means all equipment, products, devices and materials of any kind which are used 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 regulated drug in violation of 18 V.S.A. Chapter 84. The term “Drug Paraphernalia” does not include needles and syringes distributed or possessed as part of an organized community-based needle exchange program.

The term “penalty” means the fine the offender pays when he/she pays the municipal ticket and selects a plea position of Guilty or No Contest on the back of the Municipal Ticket, therefore removing the requirement of the issuing officer and the defendant from appearing at court to contest the ticket.

The term “waiver penalty” means the fine the offender pays if he/she has entered a plea position of Not Guilty, contests the Municipal Ticket in traffic court, requires the issuing officer and the defendant to appear in court to contest the ticket issuance, and the court finds the issuing officer has met his burden of proof and finds the defendant guilty.

#### **Section 3. Offense**

No person shall possess marijuana/drug paraphernalia:

- (1) With the intent to use that 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 regulated drug in violation of 18 V.S.A. Chapter 84.

- (2) Knowing, or under circumstances where one reasonably should know, that if 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 regulated drug in violation of 18 V.S.A. Chapter 84.

#### **Section 4. Penalties**

- (1) Upon determination by the issuing officer that a violation of this ordinance has taken place, a Municipal Ticket will be issued by the officer to the defendant, either in person or by mail. The fines levied against the offender are as follows:
  - A) Penalty \$100.00
  - B) Waiver Penalty \$200.00
- (2) A violation of this ordinance shall be a civil matter, enforced in accordance with the provisions of 24 V.S.A. §1974(a) and §1977 et seq. A civil penalty of not more than \$100.00 may be imposed for a violation of this civil ordinance, and the waiver fee shall be set at \$200.00 for the same. Fees will be the same, regardless of duration of time between offenses, and for all subsequent offenses.

#### **Section 5. Appeal Process**

- (1) The defendant has the right to contest the Municipal Ticket issued to him/her to the Judicial Bureau. If the hearing officer of the Judicial Bureau finds the defendant guilty, they will be required to pay the Waiver Penalty set by the hearing officer.
- (2) Appeals from decisions of the Judicial Bureau may be taken to District Court.

#### **Section 6. Failure to Pay Fine**

- (1) If the hearing officer or District Court has entered judgment to the City of Vergennes, the person found in violation of the ordinance has up to thirty (30) days to pay the penalty to the Judicial Bureau subject to an appeal taken in accordance with 24 V.S.A. §1981(a). If a defendant fails to pay the Penalty or, if the court finds the defendant guilty during a contested hearing and the defendant fails to pay the Waiver Penalty, the City of Vergennes Police Department may:
  - (A) Attach wages or property, filing or foreclosure of judgment liens, small claims actions and the filing of civil contempt action.