

ORDINANCE NO. 08 – 04

**AN ORDINANCE MAKING IT UNLAWFUL FOR ANY PERSON
TO POSSESS DRUG PARAPHERNALIA BY AMENDING
BATTLE GROUND MUNICIPAL CODE 9.14.020**

WHEREAS, the abuse of drug and controlled substances has increased substantially in the City of Battle Ground and Clark County, Washington, and

WHEREAS, it is necessary for police officers to have enhanced tools for controlling and eradicating illegal drug related activities, and

WHEREAS, a recent court opinion has indicated that State Statute does not make mere possession of drug paraphernalia unlawful but has indicated that local jurisdictions are free to make mere possession of drug paraphernalia a crime,

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BATTLE GROUND, WASHINGTON AS FOLLOWS:

Section 1. Battle Ground Municipal Code 9.14.020 and Ordinance No. 97-844 Section 29 (1997) and Ordinance 633 Section 1 (1989) shall be and is hereby amended to read as follows:

9.14.020 Prohibit acts – Penalties

A. 1. It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, inject, ingest, inhale or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

2. In addition, it is unlawful for any person to possess drug paraphernalia as defined by Battle Ground Municipal Code 9.145.030. Any person who violates this subsection is guilty of a misdemeanor.

B. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, 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. Any person who violates this subsection is guilty of a misdemeanor.

C. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication, any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects

designed and intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.


D. Any person eighteen years of age or over who violates subsection B of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor. (Ord. 97-844 § 29, 1997; Ord. 633 § I (1), 1989)

Section 2. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This Ordinance shall be effective thirty days after passage and shall be published according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF BATTLE GROUND, WASHINGTON, AT A REGULAR MEETING THEREOF HELD THIS 7 DAY OF April, 2008.

CITY OF BATTLE GROUND, WASHINGTON



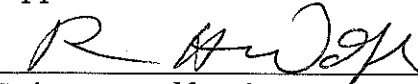
Michael J. Ciraulo, Mayor

Attest:



Claire Lider, City Clerk

Approved as to form:



Brian H. Wolfe, City Attorney