

ORDINANCE NO. 2016-07

AN ORDINANCE TO CREATE SEVERAL CLASSES OF ACTIVITIES DECLARED TO BE OFFENSES

The Town Board of the Town of Lodi do hereby ordain as follows:

1. Section 8.02 of the Lodi Municipal Code is hereby created to read as follows:

SECTION 8.02 ISSUANCE OF WORTHLESS CHECKS

- (a) No person shall issue any check or other order for the payment of money which, at the time of issuance, he or she intends shall not be paid.
- (b) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for the payment of money intended it should not be paid.
 - (1) Proof that, at the time of issuance, the person did not have an account with the drawee;
 - (2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order; or
 - (3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.

2. Section 8.03 of the Lodi Municipal Code is hereby created to read as follows:

SECTION 8.03 PROCESSING FEE FOR WORTHLESS CHECKS

A fee is hereby imposed upon merchants and other persons seeking to utilize the services of the law enforcement entity responsible for enforcing Town ordinances in collecting checks which meet the definition of worthless checks under §8.02 of this Code in the amount per check as set by the Town Board by resolution pursuant to the following terms:

- (a) A person seeking to collect a worthless check shall report the facts of said check issuance and nonpayment to the Lodi Town Clerk-Treasurer on such forms as may be prescribed by the Town.

- (b) Following the receipt of such information the Town Clerk-Treasurer will refer the form to the law enforcement entity responsible for enforcing Town ordinances who will make a determination if issuance of a worthless check has in fact occurred and that payment of said check has not been made, the said law enforcement entity will follow such procedures as it deems appropriate in attempting to collect said check. Said procedures may include a written communication to said check issuer which, among other things, may require the check issuer to pay, in addition to the amount of the bad check and appropriate extra charges imposed by the merchant, the fee imposed hereunder. The said law enforcement entity may require that said fee be paid directly to the Town of Lodi Clerk-Treasurer.
 - (c) Said fee shall be imposed and collected by the said law enforcement entity only if collection of the check occurs prior to issuance of a citation under §8.02 of this Code. In the event that the issuer of the worthless check makes payment directly to the merchant, it shall be the responsibility of the merchant to pay said fee to the Town of Lodi Clerk-Treasurer.
3. Section 8.04 of the Lodi Municipal Code is hereby created to read as follows:

SECTION 8.04 POSSESSION AND USE OF MARIJUANA

- (a) Acts prohibited. It shall be unlawful for any person to possess, use, sell or deliver 25 grams or less of marijuana or a marijuana derivative.
- (b) Definition. "Marijuana" means all parts of the plant *Cannabis sativa L*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.
- (c) Exception. This section shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice.

4. Section 8.05 of the Lodi Municipal Code is hereby created to read as follows:

SECTION 8.05 POSSESSION OF DRUG PARAPHERNALIA

- (a) Definitions. For purposes of this section, the following terms are defined:
 - (1) Drug Paraphernalia. All equipment, products and materials of any kind which are used, intended 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 controlled substance, as defined in Wis. Stats. Ch. 961 (hereinafter "controlled substance"), in violation of Wis. Stats. Ch. 961 and § 804(a) of this code. It includes, but is not limited to:

- (A) Kits used, intended for use or designed 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.
- (B) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
- (C) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
- (D) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- (E) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
- (F) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.
- (G) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
- (H) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
- (I) Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
- (J) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.

- (K) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including but not limited to:
- (i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
 - (ii) Water pipes.
 - (iii) Carburetion tubes and devices.
 - (iv) Smoking and carburetion masks.
 - (v) Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
 - (vi) Miniature cocaine spoons and cocaine vials.
 - (vii) Chamber pipes.
 - (viii) Carburetor pipes.
 - (ix) Electric pipes.
 - (x) Air-driven pipes.
 - (xi) Chilams.
 - (xii) Bongs.
 - (xiii) Ice pipes or chillers.

(2) "Drug paraphernalia" excludes:

- (A) Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body.
- (B) Any items, including pipes, papers and accessories, that are designed for use or primarily intended for use with tobacco products.

(3) "Primarily." Chiefly or mainly.

(b) Determination of Drug Paraphernalia. In determining whether an object is drug paraphernalia, the following should be considered:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
 - (2) The proximity of the object in time and space to a direct violation of Wis. Stats. Ch. 961, or § 8.04 of this code.
 - (3) The proximity of the object to controlled substances.
 - (4) The existence of any residue of controlled substances on the object.
 - (5) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of Wis. Stats. Ch. 961, or §8.03 of this chapter. The innocence of an owner or of anyone in control of the object as to a direct violation of Wis. Stats. § Ch. 961, or §8.04(a) of this code shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
 - (6) Oral or written instructions provided with the object concerning its use.
 - (7) Descriptive materials accompanying the object which explain or depict its use.
 - (8) Local advertising concerning its use.
 - (9) The manner in which the object is displayed for sale.
 - (10) 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.
 - (11) The existence and scope of legitimate uses for the object in the community.
 - (12) Expert testimony concerning its use.
- (c) Prohibited Activities.
- (1) Possession of drug paraphernalia. No person may use, or possess with intent to use, drug 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 controlled substance in violation of Wis. Stats. Ch. 961, or §8.04 of this code.

- (2) Manufacture or delivery of drug paraphernalia. No person may deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing 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 in violation of Wis. Stats. Ch. 961, or §8.04 of this code.
 - (3) Advertisement of drug paraphernalia. No person may place in any newspaper, magazine, handbill or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
 - (e) Exemption. This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Wis. Stats. Ch. 961. This section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Wis. Stats. Ch. 961.
5. Section 8.06 of the Lodi Municipal Code is hereby created to read as follows:

SECTION 8.06 THEFT

- (a) Acts prohibited.
 - (1) It shall be unlawful for any person to intentionally take and carry away, use, transfer, conceal, or retain possession of moveable property of another without that person's consent and with intent to deprive such person permanently of possession of such property.
 - (2) It shall be unlawful for any person to intentionally take and carry away, use, transfer, conceal, or retain possession of moveable property belonging to the Town of Lodi or its departments without the consent of the proper authority and with intent to deprive the City of its departments permanently of possession of such property.
- (b) Definitions. For purposes of this section, the following terms are defined:
 - (1) Moveable Property. Property whose physical location can be changed, without limitation including electricity, gas, documents which represent or embody intangible rights, and things growing on, affixed to or found in land.

- (2) Property. All forms of tangible property, whether real or personal, without limitation including electricity, gas and documents which represent or embody a chose in action or other intangible rights.

6. Section 8.07 of the Lodi Municipal Code is hereby created to read as follows:

SECTION 8.07 CONSUMPTION OR POSSESSION BY UNDERAGE PERSONS

- (a) Restrictions pursuant to Wis. Stats. §§ 125.07(4)(b) and (bm). No underage person not accompanied by his or her parent, guardian, or spouse who has not attained the legal drinking age may knowingly possess or consume alcoholic beverages.
- (b) Exceptions. An underage person may possess alcoholic beverages in the course of employment during his or her working hours if employed by any of the following:
 - (1) A brewer or brewpub.
 - (2) A fermented malt beverage wholesaler.
 - (3) A permittee other than a Class "B" or "Class B" permittee.
 - (4) A retail licensee or permittee under conditions specified in Wis. Stats. §§125.32(2), 125.68(2), or for delivery of unopened containers to the home or vehicle of a customer.
 - (5) Selling or serving alcoholic beverages. Pursuant to Wis. Stats. §§125.32(2), 125.68(2), any underage person who is at least 18 years of age may sell or serve alcoholic beverages on any Class "B" or "Class B" premises provided that such underage person is under the direct and immediate supervision of the licensee, agent or manager, or a licensed operator who is on the premises at the time of such sale or service.

7. Section 8.08 of the Lodi Municipal Code is hereby created to read as follows:

SECTION 8.08 DISORDERLY CONDUCT

No person shall, within the Town, in a public or private place, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

The above and foregoing Ordinance was duly adopted at a regular meeting of the Town Board of the Town of Lodi held on the 28th day of June, 2016.

CERTIFICATION BY CLERK

I, April D. Goeske, being duly sworn as Clerk-Treasurer of the Town of Lodi, Columbia County, Wisconsin, do hereby certify that the attached is a true and correct copy of the following document and related Town Board meeting minutes:

Ordinance Number: 2016-07

**Ordinance Title: AN ORDINANCE TO CREATE SEVERAL CLASSES OF
 ACTIVITIES DECLARED TO BE OFFENSES**

Date Approved: June 28, 2016

Dated this 13th day of July, 2016



April D. Goeske, Clerk-Treasurer

JUNE 28, 2016 TOWN BOARD MEETING MINUTES:

5. Ordinance 2016-07 “An Ordinance to Create Several Classes of Activities Declared to be Offenses”: *Plumer/Benson motion to approve Ordinance 2016-07. Roll call vote: Marx – yes, Benson – yes, Plumer - yes; MC 3-0 (Bechen and Brooks absent).*