

## Chapter 269

### JUVENILES

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[HISTORY: Adopted by the Common Council of the City of Hayward 7-8-2019 by Ord. No. 539. Amendments noted where applicable.]

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§ 269-1. Possession of controlled substances by.

It shall be unlawful for any person under the age of 18 to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 961, of the Wisconsin Statutes.

§ 269-2. Petty theft by juveniles.

It shall be unlawful for any person under the age of 18, with intent, to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

§ 269-3. Receiving stolen goods.

It shall be unlawful for a person under the age of 18 to intentionally receive or conceal property he knows to be stolen.

§ 269-4. City jurisdiction over persons 14 through 17 years of age.

- A. Adoption of state statutes. § 938.17(2), Wis. Stats., is hereby adopted and by reference made a part of this section as if fully set forth herein.
- B. Provisions of ordinance applicable to persons 14 through 17 years of age. Subject to the provisions and limitations of § 938.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code against persons 14 through 17 years of age may be brought on behalf of the City of Hayward and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.

- C. No incarceration as penalty. The court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this section.
- D. Additional prohibited acts. In addition to any other provisions of the City of Hayward Code, no person age 14 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- E. Penalty for violations of Subsection D. Any person 14 through 17 years of age who shall violate the provisions of Subsection D shall be subject to the same penalties as are provided in § 269-8 of this chapter.

**§ 269-5. Possession, manufacture and delivery of drug paraphernalia by a minor prohibited.**

A. Definition.

As used in this chapter, the following terms shall have the meanings indicated: 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, selling, distributing, delivering, 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 Ch. 961, Wis. Stats., in violation of this section. It includes but is not limited to:

- (1) Kits used, intended for use, or designated 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.
- (2) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, or preparing controlled substances.
- (3) Isomerization devices used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
- (4) Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
- (5) Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
- (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
- (7) 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.
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding controlled substances.

- (9) Capsules, balloons, envelopes or other containers used, intended for use, or designed for use, in packaging small quantities of controlled substances.
  - (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
  - (11) Hypodermic syringes, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
  - (12) 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:
    - (a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
    - (b) Water pipers;
    - (c) Carburetion tubes and devices;
    - (d) Smoking and carburetion masks;
    - (e) 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;
    - (f) Miniature cocaine spoons and cocaine vials;
    - (g) Chamber pipes;
    - (h) Carburetion pipes;
    - (i) Electric pipes;
    - (j) Air driver pipes;
    - (k) Chillums;
    - (l) Bongs;
    - (m) Ice pipes or chillers.
- B. Determination of drug paraphernalia. In determining whether an object is drug paraphernalia, the following shall be considered, without limitation, of such other considerations a court may deem relevant:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
  - (2) Prior convictions, if any, of an owner or of anyone in control of the object, under any City, state or federal law relating to any controlled substance.
  - (3) The proximity of the object in time and space to a direct violation of this section.
  - (4) The proximity of the object to controlled substances.
  - (5) The existence of any residue of controlled substances on the object.

- (6) Direct or circumstantial evidence of the intent of the 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 this section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
  - (7) Oral or written instructions provided with the object concerning its use.
  - (8) Descriptive materials accompanying the object which explains or depicts its use.
  - (9) National and local advertising concerning its use.
  - (10) The manner in which the object is displayed for sale.
  - (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
  - (12) The existence and scope of legitimate uses for the object in the community.
  - (13) Expert testimony concerning its use.
- C. Prohibited uses.
- (1) Possession of drug paraphernalia. No person may use, or possess with the sole 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 this subsection.
  - (2) Manufacture or delivery of drug paraphernalia. No person may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be solely 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 this subsection.
  - (3) Delivery of drug paraphernalia by a minor to a minor. Any person who is under 18 years of age, who violates Subsection C by delivering drug paraphernalia to a person under 18 years of age who is at least three years younger than the violator, is guilty of a special offense.
  - (4) Exemption. This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 961, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 961, Wis. Stats.

**§ 269-6. Unlawful sheltering of minors.**

- A. No person shall intentionally shelter or conceal a minor child who:

- (1) Is a "runaway child," meaning a child who has run away from his or her parent, guardian or legal or physical custodian; or
  - (2) Is a child who may be taken into custody pursuant to § 48.19, Wis. Stats.
- B. Subsection A applies when the following conditions are present:
- (1) The person knows or should have known that the child is a child described in either Subsection A(1) or (2); and
  - (2) The child has been reported to a law enforcement agency as a missing person or as a child described in Subsection A(1) or (2).
- C. Subsection A does not apply to any of the following:
- (1) A person operating a runaway home in compliance with § 48.227, Wis. Stats.;
  - (2) A person who shelters or conceals a child at the request or with the consent of the child's parent, guardian or legal or physical custodian expect if the sheltering or concealment violates § 948.31, Wis. Stats.; or
  - (3) A person who immediately notifies a law enforcement agency, county department of public welfare or social services, or the intake worker of the court exercising jurisdiction under Ch. 48, Wis. Stats., that he or she is sheltering or concealing such child and provides the person or agency notified with all information requested.

**§ 269-7. Purchase or possession of tobacco products and electronic smoking devices.**

- A. As used in this chapter, the following terms shall have the meanings indicated:

**ELECTRONIC SMOKING DEVICE** — Any product containing or delivering nicotine, or any other substance, whether natural or synthetic and not prescribed by a medical doctor, intended for human consumption through the inhalation of aerosol or vapor from the product. The term "electronic smoking device" includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. The term "electronic smoking device" includes and component of a product, whether or not marketed or sold separately.

**TOBACCO PRODUCTS** — Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

- B. Purchase by minors prohibited. It shall be unlawful for any person under the age of 18 years to purchase tobacco products or electronic smoking devices, to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products or electronic smoking devices except under provisions of § 254.92(2), Wis. Stats.
- C. Possession by minors prohibited. It shall be unlawful for any person under the age of 18 years to possess any tobacco products or electronic smoking devices except under provisions of § 254.92(2), Wis. Stats.

- D. Statutes adopted. The provisions of §§ 48.983, 134.66, 254.92 and 778.25(1)(a), Wis. Stats., are adopted by reference and incorporated herein.

**§ 269-8. Citations and forfeitures.**

Issuance of citations under § 66.0119, Wis. Stats., is hereby authorized.

- A. The Clerk of Court, Sawyer County, Wisconsin, shall have the authority to accept cash or deposits for the forfeitures, and/or bond pursuant to the schedule set forth below, or as ordered by the Circuit Court for Sawyer County:
- (1) First alleged offense: \$30 plus court costs and court assessments.
  - (2) Second alleged offense (within one year): \$50 plus court costs and court assessments.
  - (3) Third alleged offense and subsequent alleged offenses (within one year): \$100 plus court costs and court assessments.
- B. Any and all changes in the forfeiture and/or bond for this chapter shall be set by resolution, adopted by the majority vote of the Common Council of the City of Hayward.

**§ 269-9. Conflict with other provisions.**

Any ordinance or portion thereof in conflict with the terms of this chapter is hereby repealed to the extent of said conflict.

**§ 269-10. Severability.**

If any provision of this chapter is invalid or unconstitutional or if the application of this chapter to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this chapter which can be given effect without the invalid or unconstitutional provisions or applications.

**§ 269-11. When effective.**

This chapter shall take effect upon passage and publications as provided by law.