

CHAPTER 35

DRUG PARAPHERNALIA

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SEC. 35-1. TITLE

This ordinance may be known and cited as the "Drug Paraphernalia Ordinance of Scott County, Iows.

SEC. 35-2. VIOLATIONS OF CODE

Commission, to include possession with intent to use, manufacture, delivery, advertising for sale, and any of the acts named in the following sections by any person will constitute a violation of this code.

SEC. 35-3. DEFINITIONS

- A. The term "Controlled Substance", as used in this article shall be defined as the term "controlled substance" is defined in the Uniform Controlled Substances Act, Chapter 124 of the Iowa Code, as it now exists or is hereafter amended.
- B. The term "Drug Paraphernalia" as used in this article, shall mean 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, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Iowa Code, it includes, but is not limited to:
 - 1. Kits used, intended for use, or designed for use in planing, 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, 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.

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6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or 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 and 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, needles and other objects used, intended for use, or designed for use in injecting controlled substances into the human body.
12. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil, and other controlled substances into the human body, such as metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent carburation tubes and devices, smoking and carburation masks, roach clips, meaning 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, miniature cocaine spoons and cocaine vials, chamber pipes, carburetor pipes, electric pipes, air-driven pipes, chillums, bongs and ice pipes or chillers.
13. Advertisement in any type of publication where a person knows or one should reasonably know, 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.

- C. "Person", as used in this article shall mean an individual, corporation, business, trust, estate, partnership or association, or any other legal entity.

SEC. 35-4. CRITERIA FOR DETERMINING DRUG PARAPHERNALIA

- A. In determining whether an object is drug paraphernalia, a court and law enforcement department should consider the following factors in addition to all other logically relevant factors:
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 state or Federal law relating to any controlled substance.
 3. The proximity of the object, in time and space, to a direct violation of the act or this chapter.
 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 an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of the act or this chapter.

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7. Instructions, oral or written, provided with the object concerning its use.
8. Descriptive materials accompanying the object which explain or depict its use.
9. National and local advertising concerning its use
10. The manner in which the object is displayed for sale.
11. 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.
12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the enterprise.
13. The existence and scope of legitimate uses for the object in the community.
14. Expert testimony concerning its use.

SEC. 35-5. FULL FORCE AND EFFECT

This ordinance shall be in full force and effect from the date of passage and publication as required by law.

SEC. 35-6. SEVERABILITY OF PROVISIONS

If any section, subsection, sentence, clause, phrase or portion of this ordinance be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion hereof.

SEC. 35-7. PENALTY

Anyone violating any of the provisions of this chapter shall be guilty of a simple misdemeanor and, upon conviction, be subject to imprisonment not exceeding thirty days, or a fine not exceeding \$100.00 for each individual violation.