

ORDINANCE NO. 10

AN ORDINANCE DEFINING AND PROHIBITING USE, POSSESSION, DELIVERY OR MANUFACTURE OF DRUG PARAPHERNALIA IN ADAIR COUNTY, AND PROVIDING PENALTIES.

Be It Enacted by the Board of Supervisors of Adair County, Iowa:

Section I. DEFINITIONS: For the purpose of this Chapter, the following terms and words are hereby defined:

- A. DRUG PARAPHERNALIA: As used in this Chapter, unless the context otherwise requires, drug paraphernalia shall mean all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in manufacturing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, as defined by Chapter 124 of the 1995 Iowa Code, as amended: It shall include, but not be limited to the following:
1. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
 2. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining of marijuana;
 3. Hypodermic syringes, needles, or other objects used, intended for use, and designed for use in parenterally injecting controlled substances into the human body; and
 4. Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish oil into the human body, which shall include but not be limited to the following:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Roach clips, meaning objects used to hold burning material, such as marijuana cigarette, which has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons, and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air-driven pipes;
 - k. Chillums;
 - l. Bongs; and
 - m. Ice pipes or chillers.
- B. DETERMINATION OF WHAT CONSTITUTES WHETHER AN OBJECT IS DRUG PARAPHERNALIA: In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:
1. Statement 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 laws in relation to any controlled substance as defined in Chapter 124 of the 1995 Iowa Code, as amended;

3. The proximity of the object, in time and space, to a direct violation of Chapter 124 of the 1995 Iowa Code, as amended;
4. The proximity of the object to a controlled substance as defined in Chapter 124 of the 1995 Iowa Code, as amended;
5. The existence of any residue of a controlled substance as defined in Chapter 124 of the 1995 Iowa Code, as amended;
6. Direct or circumstantial evidence of an owner, or anyone in control of the object, delivering it to any person whom he or she knows, or should reasonably know, may use the object to facilitate a violation of this Chapter. The innocence of an owner, or anyone in control of an object, as to a direct violation of this Chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
7. Instructions, oral or written, provided with the object concerning its use;
8. Descriptive materials accompanying the object which explains or depicts its use;
9. National or 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 in the County, such as licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise;
13. The existence and scope of any legitimate use for the object in the County; and
14. Expert testimony concerning its use.

Section II. USE OR POSSESSION: It shall be unlawful for any person to use or to possess drug paraphernalia to manufacture, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance as defined in Chapter 124 of the 1995 Iowa Code, as amended. However, it shall not be unlawful to possess drug paraphernalia for the purpose of use as evidence or for use in education.

Section III. DELIVER, POSSESS, OR MANUFACTURE: It shall be unlawful for any person to deliver, possess, or manufacture drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to manufacture, inject, ingest, inhale, or otherwise be used to introduce into the human body a controlled substance as defined in Chapter 124 of the 1995 Iowa Code, as amended. However, it shall not be unlawful to possess or deliver drug paraphernalia for the purpose of use as evidence or for use in education.

Section IV. PENALTIES: Any person, who violates any of the provisions of this Chapter, shall, upon conviction, be deemed guilty of a simple misdemeanor and shall be fined not more than one hundred (\$100.00) dollars or imprisoned for not more than thirty (30) days for each offense.

Section V. REPEALER: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. However, such repeal shall be only to the extent of such conflict.

Section VI. SEVERABILITY CLAUSE: If any section, provision or part of this ordinance shall be adjudged invalid, or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section VII. EFFECTIVE DATE: This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Adair County Board of Supervisors the 14th day of February, 1996, and approved this 14th day of February, 1996.

Diane Weiland, Chairperson

ATTEST:

Jenice Wallace, Auditor