

MITCHELL COUNTY
ORDINANCE NO. 19
EFFECTIVE 6-21-00
AN ORDINANCE PROHIBITING
THE POSSESSION, USE OR SALE
OF DRUG PARAPHERNALIA

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF MITCHELL COUNTY, IOWA:

Purpose: It is the purpose and intent of the Board of Supervisors to promote the health, safety and morals of the citizens of Mitchell County, Iowa. Except as authorized by Chapter 204, Code of Iowa, the use or administration of controlled substances is clearly illegal. Objects in close connection and adapted for the use of controlled substances should also be controlled because of the lack of legitimate social or practical purposes of such objects or paraphernalia, whether the use be by adults or minors. It is also strong public policy to protect children from unsupervised exposure to, and familiarity with drug paraphernalia. In addition to education about the items in school and at home, it is also essential to discourage open use, possession, manufacture and commerce of these drug related items.

SHORT TITLE & DEFINITIONS

1.01 Short Title. This ordinance shall be known and may be cited and referred to as the "Drug Paraphernalia Act of Mitchell County, Iowa" to the same effect as if full title was stated.

1.02 Definitions: The following words and phrases when used in this Ordinance shall have the meanings respectively ascribed to them except where the context otherwise requires.

1. "Controlled Substance" shall mean any drug, substance or immediate precursor enumerated, defined or established pursuant to the provisions of Schedules I, II, III, IV, and V of Division II of Chapter 124, Code of Iowa (1999) or its successor code section, known as the Controlled Substances Act or as hereafter may be amended.

2. "Drug Paraphernalia" shall mean:

A. The term "Drug Paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, weighing, 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

listed in Schedules I, II, III, IV, and V of Division II of Chapter 124, Code of Iowa (1999) or its successor code section, or as hereafter may be amended. It includes, but is not limited to:

- a. Kits used or intended 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 or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- c. Isomerization devices used or intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- d. Testing equipment used or intended for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- e. Scales and balances used or intended for use in weighing or measuring controlled substances;
- f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used or intended for use in cutting controlled substances;
- g. Separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- h. Blenders, bowls, containers, spoons, and mixing devices used or intended for use in compounding controlled substances;
- i. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances;
- j. Containers and other objects used or intended for use in storing or concealing controlled substances;
- k. Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body;
- l. Objects used or intended for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

- 1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- 2) Water pipes;
- 3) Carburetor tubes or devices;
- 4) Smoking and carburetion masks;
- 5) Chamber pipes;
- 6) Carburetor pipes;
- 7) Electric pipes;
- 8) Air-driven pipes;
- 9) Chillums;
- 10) Bonges;
- 11) Ice pipes or chillers;

3. In determining whether an object is drug paraphernalia, a Court or other authority should consider, in addition to all other logically relevant factors, the following:

- A. Statements by an owner or by anyone in control of the object concerning its use;
- B. 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;
- C. The proximity of the object, in time and space, to a direct violation of Chapter 124 of the Iowa Code or its successor code section;
- D. The proximity of the object to controlled substances;
- E. The existence of any residue of controlled substances on the object;
- F. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows intends to use

the object to facilitate a violation of Chapter 124 of the Iowa Code or its successor code section; the innocence of an owner, or of anyone in control of the object, as to a direct violation of Chapter 124 of the Iowa Code or its successor code section, shall not prevent a finding that the object is used or intended for use as drug paraphernalia;

G. Instructions, oral or written, provided with the object concerning its use;

H. Descriptive materials accompanying the object which explain or depict its use;

I. National and local advertising concerning its use;

J. The manner in which the object is displayed for sale, including its proximity to other objects commonly used or intended for use in planting, propagating, cultivation, 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 in violation of Chapter 124, Code of Iowa, (1999) or its successor code section;

K. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

L. The existence and scope of legitimate uses for the object in the community;

M. Expert testimony concerning its use.

OFFENSES

2.01 Offenses:

1. Possession of drug paraphernalia prohibited.

It is unlawful for any person, firm, corporation, partnership or any legal entity to use, possess, or to 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.

2. Manufacture or delivery of drug paraphernalia prohibited.

It is unlawful for any person, firm, corporation, partnership or any legal entity 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.

3. Advertisement of Drug Paraphernalia.

It is unlawful for any person, firm, corporation, partnership or any legal entity 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 or intended for use as drug paraphernalia.

VALIDITY

3.01 Validity. Should any section, sentence, clause or provision of this Ordinance be declared by a court to be invalid, the same shall not affect the validity of this Ordinance as a whole or the remaining portions of this Ordinance.

PENALTIES

4.01 Penalties. Any person, firm, corporation, partnership or any legal entity who violates this ordinance shall, upon conviction, be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty days in lieu of a fine or in addition to a fine.

ENACTMENT AND EFFECTIVE DATE

This enactment shall be in full force and effect from and after its passage and adoption as provided by law.

Passed this 13th day of June, 2000.



Chairman, Mitchell County Board of Supervisors

ATTEST:

Sandra Heckstein
Sandra Heckstein
Mitchell County Auditor