

CHAPTER 132: DRUGS; PARAPHERNALIA

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' 132.01 UNLAWFUL ACTS.

It shall be unlawful and punishable as provided herein, for any person to possess, manufacture or possess with intent to deliver marihuana, or to possess any drug paraphernalia as defined below. (Ord. passed 7-8-2002) Penalty, see ' 132.99

' 132.02 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

DRUG PARAPHERNALIA. All equipment, products and materials of any kind which are used, intended for use or designed for use, in planting, propagating, cultivating, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, inhaling or otherwise introducing into the human body a controlled substance in violation of the Public Health Code of the state. It includes, but is not limited to:

- (1) 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;
- (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 is 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 substance;

(5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

(6) Dilutents 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 gin and sifter used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining, marijuana;

(8) Ellenders, 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 parenterally injecting controlled substances into the human body;

(12) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(13) Water pipes;

(14) Carburetion tubes and devices;

(15) Smoking and carburetion masks;

(16) Roach clips: meaning objects used to hold burning materials such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(17) Miniature cocaine spoons and cocaine vials;

(18) Chamber pipes;

(19) Carburetor pipes;

(20) Electric pipes;

(21) Air-driven pipes;

(22) Chillums;

(23) Bongs;

(24) Ice pipes or chillers; and

(25) 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 this chapter;

(d) The existence 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 he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter;

(g) Instructions, oral or written, provided with the object concerning its use;

(h) Descriptive material 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;

(k) 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;

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

(m) The existence and scope of legitimate uses for the object in the community.

(Ord. passed 7-8-2002)

132.03 OFFENSES.

(A) *Possession of marijuana.* No person shall knowingly and intentionally possess marijuana.

(B) *Possession of drug paraphernalia.* It is unlawful for any person to use, 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 in violation of this chapter.

(C) *Manufacture, sale or delivery of drug paraphernalia.* It is unlawful for any person to sell, deliver, possess with intent to deliver or sell, or manufacture with intent to deliver or sell, 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 in violation of this chapter.

(D) *Advertise of drug paraphernalia.* It is unlawful for any person 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 any objects designed or intended for use as a drug paraphernalia.

(Ord. passed 7-8-2002) Penalty, see ' 132.99

' 132.04 EXCEPTIONS.

This chapter shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, law enforcement agencies, pharmacists and embalmers in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma or any other medical condition which requires administering prescribed medication.

(Ord. passed 7-8-2002)

' 132.05 CIVIL FORFEITURE.

Any drug paraphernalia used, sold, possessed with intent to use, sell or deliver, or manufacture, in violation of this chapter, shall be seized and forfeited to the village.

(Ord. passed 7-8-2002)

' 132.99 PENALTY.

Any person who shall be convicted of a violation of any provision of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed \$500, or by imprisonment not to exceed 90 days, or both. Each day a violation continues shall be considered a separate offense and may be punished accordingly.
(Ord. passed 7-8-2002)