

ORDINANCE #V.3

AN ORDINANCE PROHIBITING THE USE, POSSESSION WITH INTENT TO USE, MANUFACTURE AND DELIVERY OF DRUG PARAPHERNALIA

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

Section 1. Purpose. The purpose of this ordinance is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

Section 2. Controlled Substance Defined. The term "drug paraphernalia" as used in this ordinance shall mean all equipment, products and materials of any kind which are 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 Code of Iowa. It includes, but is not limited to:

1. Growing 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. Processing 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 for use in weighing or measuring controlled substances.
6. Dilutents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose, or lactose, used intended for use, or designed for use in cutting controlled substances.
7. Separators - Sifters. Separation gins and sifters use, intended for use, or designed to use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
8. Mixing Devices. Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.

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9. Containers. 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. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. Ingesting-Inhaling Device: Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroine, marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - 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. Carburetor tubes and devices;
 - d. Smoking and carburetion masks;
 - e. 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;
 - f. Miniature cocaine spoons and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 1. Electric pipes;
 - j. Air driven pipes;
 - k. Chillums
 - l. Bongs;
 - m. Ice pipes or chillers.

Section 3. Determining Factors. In determining whether an object is drug paraphernalia for the purpose of enforcing this article, the following factors should be considered 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 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 Uniform Controlled Substance Act, Chapter 124 of the Iowa Code.
4. Proximity to Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.
6. Evidence of Intent. 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, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Iowa Code.
7. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Iowa Code should not prevent a finding in that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions, oral or written, provided with the object concerning to its use.
9. Descriptive materials accompanying the object which explain or depict its use.
10. Advertising. National and local advertising concerning its use.
11. Displayed. 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 (2005).
12. Licensed Distributor or Dealer. Whether the owner, 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.
13. Sales Ratios. Direct or circumstantial evidence of ratio of sales of the object(s) to the total sales of the business enterprise.

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14. **Legitimate Uses.** The existence and scope of legitimate uses for the object in the community.
15. **Expert Testimony.** Expert testimony concerning its use.

Section 4. **Person Defined.** “Person”, as used in this article, shall mean an individual, corporation, business, trust, estate, partnership or association, or any other legal entity.

Section 5. **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 the Uniform Controlled Substance Act, Chapter 124 of the Iowa Code.

Section 6. **Manufacture, Delivery or Offering For Sale of Drug Paraphernalia.** It is unlawful for any person to deliver, possess with the intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use 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 the Uniform Controlled Substance Act, Chapter 124 of the Iowa Code.

Section 7. **Legislative intent.** It is the purpose and intent of this Board of Supervisors to promote the health, safety, and morals of the citizens of Tama County, Iowa. The use or administration of controlled substances is clearly illegal. The banning of all objects in close connection and adapted for the use of controlled substances should also be controlled because of the lack of social or practical purposes of such objects of paraphernalia, whether the use be by adults or minors. It is also strong public policy to protect children from the unsupervised exposure and familiarity of 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.

Section 8. **Penalties.** Any person, firm, or corporation violating any provision, section, or paragraph of this article shall be guilty of a misdemeanor, and upon conviction thereof, be subject to a fine of not more than one hundred dollars (\$100.00) or be imprisoned for not more than thirty (30) days. Each day a violation occurs shall constitute a separate offense.

Section 9. **Nuisance.** In addition to the above, or in lieu thereof, violation off this article shall constitute a nuisance which may be abated in the manner provided in Iowa Code 364.12(3)(h) or 331.384(2) by injunction in the Iowa District Court or by the nuisance abatement proceedings as set forth in this

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