

## CHAPTER 48

# DRUG PARAPHERNALIA

48.01 Purpose

48.02 Controlled Substance Defined

48.03 Drug Paraphernalia Defined

48.04 Determining Factors

48.05 Possession of Drug Paraphernalia

48.06 Manufacture, Delivery or Offering For Sale

48.07 Possession, Manufacture or Delivery of Drug  
Paraphernalia by Minors

**48.01 PURPOSE.** The purpose of this chapter is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

**48.02 CONTROLLED SUBSTANCE DEFINED.** The term “controlled substance” as used in this chapter is defined as the term “controlled substance” is defined in the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa, as it now exists or is hereafter amended and shall also include simulated and counterfeit substances, Salvia, Divinorum, Salvinorin A, as well as synthetic catinones, synthetic cannabinoids and their analogues or homologues.

*(Ord. 12-13 – May 12 Supp.)*

**48.03 DRUG PARAPHERNALIA DEFINED.** The term “drug paraphernalia” as used in this chapter means 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 Code of Iowa. It includes, but is not limited to:

1. Growing Kits. 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. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization Devices. 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. 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. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Diluents and Cutting Agents. Diluents and adulterants, such as quinine hydrochloride, inositol powder, dextrose, fentanyl or any other powder, chemical or substance used to enhance or dilute the potency or amount of any controlled substance.
7. Separators, Sifters and Filters. Separation, sifting or filtering apparatus designed to assist in the manufacturing or refining of any controlled substance or any component of a controlled substance.
8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.
9. Containers. Any container or other object used, intended for use, or designed for use in storing, packaging or concealing controlled substance, to include but not be limited to capsules, plastic bags and containers, envelopes, clothing and clothing accessories, manufactured "false interior" objects, or any other container or object where a controlled substance is found.
10. 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.
11. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, snorting, or otherwise introducing any controlled substance into the human body, such as:
  - A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, filter and bowls;
  - B. Water, chamber, carburetor and air driven pipes;
  - C. Smoking and carburetion masks;
  - D. Roach clips and similar objects, meaning objects used to hold burning materials, such as marijuana cigarettes;
  - E. Spoons and stirrers or any other utensil used to hold or mix controlled substances before, after or during their use;
  - F. Chilliums, bongs, ice pipes and chillers;
  - G. Rolling papers or cigar wrappers used to contain any controlled substance;
  - H. Tubes, whether plastic, paper, metal or otherwise which are used in snorting any controlled substance;

12. Huffing Device. Pressurized containers used, but not intended for such use, to ingest, inhale, or otherwise introduce products, chemicals, or aerosols into the human body.

*(Ord. 12-13 – May 12 Supp.)*

**48.04 DETERMINING FACTORS.** In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. 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. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.
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 or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.
7. Innocence of an Owner. 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 Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. 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.
12. Licensed Distributor or Dealer. 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.

13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

**48.05 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 Code of Iowa.

**48.06 MANUFACTURE, DELIVERY OR OFFERING FOR SALE.** It is unlawful for any person to deliver, possess with 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 Substances Act, Chapter 124 of the Code of Iowa.

**48.07 POSSESSION, MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA BY MINORS.** It is unlawful for any minor 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 Substances Act, Chapter 124 of the Code of Iowa. It is also unlawful for any minor to deliver, possess with intent to deliver, or manufacture with intent to deliver, 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 Substances Act, Chapter 124 of the Code of Iowa.

[The next page is 263]