

Part II.

THE CLAY COUNTY COMMISSION HEREBY CREATES AND ENACTS A NEW SECTION IN TITLE 4 OF THE CLAY COUNTY CODE RELATING TO DRUG PARAPHERNALIA:

OFFENSES RELATING TO DRUG PARAPHERNALIA:

- A. It is unlawful for any person knowingly or intentionally to use or to possess drug paraphernalia. Any violation of this section is a petty misdemeanor.
- B. A person may not deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, if that person knows or should reasonably know that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, enhance, 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 Minnesota Statutes Chapter 152. Any violation of this section is a misdemeanor.
- C. **Definitions:**
 - (a) DRUG PARAPHERNALIA: Except as otherwise provided in paragraph (b), "drug paraphernalia" 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, enhancing, 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 Minnesota Statutes Chapter 152.
 - (b) "Drug paraphernalia" does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes
 - (c) The term paraphernalia includes, without limitation:
 - (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 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 designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, including quinine hydrochloride, mannitol, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons, grinders, and mixing devices used, intended for use, or designed for use in compounding, manufacturing, producing, processing, or preparing 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 or products or materials used or intended for use in manufacturing, producing, processing, or preparing controlled substances.

(11) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, including:

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. Objects, sometimes commonly referred to as roach clips, used to hold burning material, for example, 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.
- i. Electric pipes.
- j. Air-driven pipes.
- k. Chillums.
- l. Bongs.
- m. Ice pipes or chillers.

(12) Ingredients or components to be used or intended or designed to be used in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance, whether or not otherwise lawfully obtained, including anhydrous ammonia, nonprescription medications, methamphetamine precursor drugs, or lawfully dispensed controlled substances.

D. Drug Paraphernalia Guidelines:

In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors:

- (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 ordinance.
- (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 any person in control of the object, to deliver the object to another person whom the owner or person in control of the object knows, or should reasonably know, intends to use the object to facilitate a violation of this ordinance. The innocence of an owner, or of any person in control of the object, as to a direct violation of this ordinance may not prevent a finding that the object is intended or designed for use as drug paraphernalia.
- (g) Instructions, oral or written, provided with the object concerning the object's use.
- (h) Descriptive materials accompanying the object, which explain or depict the object's use.
- (i) National and local advertising concerning the object's 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, for example, a licensed distributor or dealer of tobacco products.
- (l) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.
- (m) The existence and scope of legitimate uses for the object in the community.
- (n) Expert testimony concerning the object's use.
- (o) The actual or constructive possession by the owner or by a person in control of the object or the presence in a vehicle or structure where the object is located of written instructions, directions, or recipes to be used, or intended or designed to be used, in manufacturing, producing, processing, preparing, testing, or analyzing a controlled substance.

E. Forfeiture.

All drug paraphernalia as defined in this ordinance are subject to forfeiture under Minnesota Statutes sections 609.531 to 609.5318. All drug paraphernalia possessed, transferred, sold, or offered for sale, in violation of this ordinance are hereby defined as contraband for purposes of Minnesota Statute section 609.5316, subd. 1.