CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose
43.02 Definitions
43.03 Possession, Sale or Distribution Prohibited
43.04 Penalties and Remedies
43.05 Evidence of Violation
43.06 Defenses

43.01 PURPOSE. The purpose of this chapter is to control the illegal use of controlled substances that constitute a major threat to public health and safety; and the possession, display, sale or distribution of drug paraphernalia promotes, fosters and enables the illegal use of controlled substances.

43.02 DEFINITIONS. For the purpose of this chapter, the term "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, 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 the laws of the State of Iowa. "Drug paraphernalia" includes, but is not limited to:

1. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances under circumstances in violation of the laws of the State;

2. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

3. 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;

4. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

5. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

6. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; or

7. Objects used, intended for use, or designed for use in ingesting, inhaling, injecting or otherwise introducing marijuana, cocaine, methamphetamine, hashish, hashish oil or other illegal controlled substances 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. Carburetion 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;

I. Electric pipes;

J. Air driven pipes;

K. Chillums;

L. Bongs;

M. Ice pipes or chillers.

43.03 POSSESSION, SALE OR DISTRIBUTION PROHIBITED. It is unlawful for any person to possess, to sell, offer for sale, display, furnish, supply or give away any drug paraphernalia. The prohibition contained in this section does not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, nurses, hospitals, physicians, dentists, veterinarians, pharmacists or embalmers engaged in normal lawful course of their respective businesses or professions, or to common carriers or warehousers or their employees engaged in the lawful transportation of such paraphernalia, or to public officers or employees while engaged in the performance of their official duties.

43.04 PENALTIES AND REMEDIES. Any violation of this chapter is a simple misdemeanor. The City may institute civil proceedings to obtain injunctive and declaratory relief or such other orders of the court as are reasonable and proper to abate practices, conditions or circumstances found to be contrary to or prohibited by the provisions of this chapter. The City may

assess a civil penalty for each infraction of this chapter in accordance with Chapter 3 of this Code of Ordinances. Any civil penalty collected shall go into a fund for the prevention of or enforcement of illicit drug use.

43.05 EVIDENCE OF VIOLATION. In determining whether an object is drug paraphernalia, a court, in its discretion, may consider, in addition to all other relevant factors, the following:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. The proximity of the object to controlled substances;

3. The existence of any residue of controlled substances on the object;

4. Direct or circumstantial evidence of the knowledge of any owner or of anyone in control of the object, that persons whom he or she knows, or should reasonably know, could use the object to facilitate a violation of this chapter;

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

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

7. National and local advertising concerning its use;

8. The manner in which the object is displayed for sale;

9. Whether the owner, or anyone in control of the object, is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products;

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

11. Expert testimony concerning its use.

43.06 DEFENSES. It shall be an affirmative defense to this chapter that a person in possession of paraphernalia under this chapter has a valid medical reason for such possession, as evidenced by a dated statement signed by a licensed physician setting forth the facts supporting such medical necessity.

[The next page is 205]