

HANCOCK COUNTY ORDINANCE NUMBER THIRTEEN

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

BE IT ENACTED by the Board of Supervisors of Hancock County, Iowa.

SECTION 1. The Code of Ordinances of Hancock County, Iowa, 1999, is amended by adding a new Ordinance, Ordinance 13, entitled Drug Paraphernalia, which is hereby adopted as follows:

13.01 PURPOSE. It is the purpose and intent of the Hancock County Board of Supervisors to promote the health, safety and morals of the citizens of Hancock County, Iowa. Except as authorized by Chapter 124, Code of Iowa, the use or administration of controlled substances is clearly illegal. 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 or 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:

13.02 DEFINITIONS. For use within this Section, the following words and terms are defined:

A. DELIVER. To transfer from one person to another.

B. DRUG PARAPHERNALIA:

1. 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 not is limited to:

a. 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.

b. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

c. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

d. Testing equipment used, intended for use, or designed for use 111 identifying or in analyzing the strength, effectiveness or purity of controlled substances.

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

f. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

g. 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.

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

i. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in storing or concealing controlled substances.

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

k. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

1. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:

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

ii. Water pipes;

iii. Carburetion tubes and devices;

iv. Smoking and carburetion masks;

- iv. 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;
- vi. Miniature cocaine spoons and cocaine vials;
- vii. Chamber pipes;
- viii. Carburetor pipes;
- ix. Electric pipes;
- x. Air driven pipes;
- xi. Chillums;
- xii. Bongs;
- xiii. Ice pipes or chillers.

2. 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 the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.
- 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 any 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.
- g. 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.
- h. Instructions, oral or written, provided with the object concerning its use.

- l. Descriptive materials accompanying the object which explain or depict its use.
- j. National and local advertising concerning its use.
- k. The manner in which the object is displayed for sale.
- 1. 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.
- m. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
- n. The existence and scope of legitimate uses for the object 111 the community.
- o. Expert testimony concerning its use.

C. PERSON: A natural person or any firm, partnership, association, corporation or . cooperative association.

13.03 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 Substances Act, Chapter 124 of the Code of Iowa.

13.04 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.

13.05 DELIVERY OF DRUG PARAPHERNALIA TO A MINOR. Any person eighteen (18) years of age or over who violates Section 13.04 by delivering drug paraphernalia to a person under eighteen (18) years of age, who is at least three (3) years his junior, is guilty of a special offense and upon conviction, may be imprisoned for not more that thirty (30) days, fined not more than one hundred (\$100.00) or both.

13.06 ADVERTISEMENT 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 objects designed or intended for use as drug paraphernalia.

13.07 PENALTIES. Any person, firm, or corporation violating any provision, section, or paragraph of this Ordinance shall be guilty of a simple misdemeanor or a county infraction. Each day a violation occurs shall constitute a separate offense.

SECTION 2. REPEALER All ordinances or parts of ordinances in conflict with provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged, invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part there of not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Adopted and passed by the Hancock County Board of Supervisors on this 24th day of January , 2000.

Signed by:

Robert D. Reibsamens, Chairman
Hancock County Board of Supervisors

John M. Torkelson, Member
Hancock County Board of Supervisors

Diane Dethmers Paca, Member
Hancock County Board of Supervisors

Attested by:

Debra Bellinghausen, Auditor
Hancock County, Iowa

ADOPTED ORDINANCE PUBLISHED: FEBRUARY 9, 2000