

## CHAPTER 8

### DRUG PARAPHERNALIA

#### SECTION:

- 6-8-1: Definitions
- 6-8-2: Offenses and Penalties
- 6-8-3: Civil Forfeiture

#### **6-8-1: DEFINITIONS:**

**CONTROLLED SUBSTANCES:** Cannabis which includes marijuana, hashish and other substances which are identified as including any parts of the plant *Cannabis sativa*, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, sale, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted there from), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

**DRUG PARAPHERNALIA:** 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 this Act (meaning the Controlled Substance Act of this State.) It included, but is not limited to:

1. Kits used, intended for use, or designed for use in planting, propagation, 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, such as quinine hydrochloride, mannitol, mannite, dextrous 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 and mixing devices used, intended for use, or designed for use in compounding controlled substances;
9. Capsules, balloons, envelops 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. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body;
12. 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, 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. Carburation tubes and devices;
  - d. Smoking and carburation masks;
  - e. Roach clips: meaning objects used to hold burning materials, such as marijuana cigarettes, 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;
  - n. Glass tubes designed for smoking "crack" or similar substances, approximately four inches (4") in length and up to a half inch in diameter. Said tubes are sold singularly or also as packaging for certain novelty items, including, but not limited to, miniature roses.

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:

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 of 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 this Act;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of this Act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Act should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
7. Instructions, oral or written provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related to items to the community, such as a licensed distributor or dealer of tobacco products;
12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13. The existence and scope of legitimate uses for the object in the community;
14. Expert testimony concerning its use.

**6-8-2: OFFENSES AND PENALTIES:**

1. (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 this Act. Any person who violates this Section is guilty of a crime and upon conviction may be fined not more than \$500.00 nor less than \$25.00.

2. (Manufacture or Delivery of Drug Paraphernalia) It is unlawful for any person to deliver, possess with intent to deliver, or manufacturing with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used 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 this Act. Any person who violates this Section is guilty of a crime and upon conviction may be fined not more than \$500.00 nor less than \$25.00.
3. (Delivery of Drug Paraphernalia to a minor) Any person 18 years of age or over who violates Paragraph 2 above by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years his junior is guilty of a special offense and upon conviction may be fined not more than \$500.00 nor less than \$25.00.
4. (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. Any person who violates this paragraph is guilty of a crime and upon conviction may be fined not more than \$500.00 nor less than \$25.00.

**6-8-3: CIVIL FORFEITURE:** All drug paraphernalia as defined by in Section 1 of this ordinance shall be subject to forfeiture per Chapter 56 1/2, Section 1501 through 1507, of the Illinois Revised Statutes, 1979 , and states specifically that all police officers of the Village of East Alton are Authorized to carry out the provisions as said law is made and provided and herein amended.

If any provisions of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application and to this end the provisions of this ordinance are severable. (Ord. 936, 6-17-80)