

## ORDINANCE NO 12

**AN ORDINANCE PROHIBITING THE POSSESSION, DISPLAY, SALE OR DISTRIBUTION OF DRUG PARAPHERNALIA**

Be it enacted by the Board of Supervisors of O'Brien County, Iowa:

**Section 1. DEFINITIONS.** For purposes of this chapter the term "drug paraphernalia" shall mean all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagation, 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 this state.

"Drug paraphernalia" includes, but is not limited to:

- (a) 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 this state;
- (b) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
- (c) 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;
- (d) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
- (e) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
- (f) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; or
- (g) 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;
  - (1) Metal, wooden, acrylic, glass stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - (2) Water pipes;
  - (3) Carburetion tubes and devices;
  - (4) Smoking and carburetion masks;
  - (5) "Roach clips", meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;
  - (6) Miniature cocaine spoons and cocaine vials;
  - (7) Chamber pipes;
  - (8) Carburetor pipes;
  - (9) Electric pipes;
  - (10) Air-driven pipes;
  - (11) Chillums;
  - (12) Bongs; or

(13) Ice pipes or chillers.

**Section 2. POSSESSION, SALE OR DISTRIBUTION PROHIBITED.** It shall be 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 shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, nurses, hospitals, physicians, dentists, veterinarians, pharmacists or embalmers engaged in the normal lawful course of their respective businesses or professions, nor to common carriers of warehousemen or their employees while engaged in the performance of their official duties.

**Section 3. PENALTIES AND REMEDIES.**

(a) Any violation of this Section shall be a simple misdemeanor punishable by a scheduled fine of \$100.00, plus a statutory Surcharge of \$30.00; Court Cost of \$15.00; for a total fine, surcharge and costs of \$145.00. Bond shall be the amount of \$210.00 for this offense.

(b) The County 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 ordinance.

**Section 4. 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:

- (a) Statements by an owner or by anyone in control of the object concerning its use;
- (b) The proximity of the object to controlled substances;
- (c) The existence of any residue of controlled substances on the object;
- (d) Direct or circumstantial evidence of the knowledge of any owner, or of anyone in control of the object, or evidence that such person reasonably should know, that it will be delivered to persons who he knows, or reasonably should know, could use the object to facilitate a violation of this chapter.
- (e) Instructions, oral or written, provided with the object concerning its use;
- (f) Descriptive materials accompanying the object which explain or depict its use;
- (g) National or local advertising concerning its use;
- (h) The manner in which the object is displayed for sale;
- (i) 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;
- (j) The existence and scope of legal uses for the object in the community;
- (k) Expert testimony concerning its use;

**Section 5. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 6. VALIDITY.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not effect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 7. EFFECTIVE DATE.** This ordinance shall be in effect following its final passage, approval and publication as provided by law.

Passed by the Board the 5<sup>th</sup> day of May, 1998, and approved this 5<sup>th</sup> day of May, 1998.



Rudolf Riessen, Chairman  
O'Brien County Board of Supervisors

Attest:



Barb Rohwer, County Auditor