

CHAPTER 57  
DRUG PARAPHERNALIA

SCOPE

5700. Scope.

The provisions of this chapter shall apply to the unincorporated area of Jackson County.

5701. - 5709. RESERVED

DEFINITIONS

5710. Definitions.

The following are general definitions to be referred to in the construction of this chapter.  
(Ord. 920, Sec. 1, Eff. 10-29-81)

5711. Controlled Substance.

Controlled substance means any drug or substance included in Schedule I through V of the Uniform Controlled Substances Act found in Chapter 195 of the Revised Statutes of Missouri, including, but not limited to the following:

a. Cocaine.

Cocaine and its derivatives.

b. Opiates.

Opiates and opium derivatives such as heroin, codeine, pethidine and morphine.

c. Hallucinogenic Substances.

Hallucinogenic substances including lysergic acid diethylamide, marijuana (cannabis sativa L), including seeds of mature plants, mescaline, psilocybin, and various types of methoxyamphetamines.

d. Stimulants.

Stimulants such as amphetamines and methamphetamines.

e. Barbituates.

Barbituates and other depressants such as amobarbital, secobarbital, pentobarbital, phenobarbital, methoqualone, phencyclidine, and diazepam.

(Ord. 920, Sec. 1, Eff. 10-29-81)

5712. Deliver or Delivery.

Deliver or delivery means the actual, constructive or attempted transfer from one person to another of a controlled substance or drug paraphernalia. (Ord. 920, Sec. 1(2), Eff. 10-29-81)

5713. Drug.

Drug means:

a. Officially Recognized Drugs.

Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them; or

b. Used in Diagnosis and Treatment.

Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animal;

c. Component Part.

Substances intended for use as a component of any article specified in this definition. (Ord. 920, Sec. 1(5), Eff. 10-29-81)

5714. Drug Paraphernalia.

As used in this chapter unless the context otherwise requires, drug paraphernalia shall mean all equipment, products, and materials of any kind which are used, intended for use, or designed for use, in manufacturing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter of the Missouri Uniform Controlled Substances Act, as set forth in Chapter 195, RSMo. Drug paraphernalia shall include, but not be limited to the following. (Ord. 920, Sec. 2, Eff. 10-29-81)

5714.1 Diluents and Adulterants.

Drug paraphernalia shall include diluents and adulterants such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances. (Ord. 920, Sec. 2(1), Eff. 10-29-81)

5714.2 Separation Gins and Sifters.

Drug paraphernalia shall include separation gins and sifters used, in intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana. (Ord. 920, Sec. 2(2), Eff. 10-29-81)

5714.3 Hypodermic Syringes.

Drug paraphernalia shall include hypodermic syringes, needles, and other objects

used, intended for use, and designed for use in parenterally injecting controlled substances into the human body. (Ord. 920, Sec. 2(3), Eff. 10-29-81)

5714.4 Other Objects.

Drug paraphernalia shall include objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil in the human body, which shall include but not be limited to the following:

- 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 material such as marijuana cigarette, which has become too small or too short to hold in the hands;
- f. Miniature cocaine spoons and cocaine vials;
- g. Chamber pipes;
- h. Carburetor pipes;
- i. Electric pipes;
- j. Air-driven pipes;
- k. Chillums;
- l. Bongs; and
- m. Ice pipes or chillers. (Ord. 920, Sec. 2(4), Eff. 10-29-81)

5715. Manufacture of Controlled Substances.

Manufacture means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. (Ord. 920, Sec. 1(3), Eff. 10-29-77)

5715.1 Exceptions.

Manufacture does not include the following:

a. Individual Use.

The preparation or compounding of a controlled substance by an individual for his own use, or

b. Professional Practice.

The preparation, compounding, packaging or labeling of a controlled substance by a practitioner of his agent pursuant to a lawful order of a practitioner as an incident to his administering or dispensing of a controlled substance in the course of a professional practice,

c. Research and Dispensing.

The preparation, compounding, packaging or labeling of a controlled substance by a practitioner or by his authorized agent under his supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or hospital as an incident to his or its dispensing of a controlled substance. (Ord. 920, Sec. 1(3) (a) (b), Eff. 10-29-81)

5716. Practitioner.

Practitioner means a physician (M.D. or O.D.), dentist, podiatrist, veterinarian, scientific investigator or other person licensed, registered or otherwise authorized by law to administer and prescribe, to use in teaching or chemical analysis, or to conduct research with respect to a controlled substance in the course of professional practice and research. (Ord. 920, Sec. 1(4), Eff. 10-29-81)

5717. - 5719. RESERVED

DRUG PARAPHERNALIA DETERMINATION

5720. Drug Paraphernalia Determination, Factors Considered.

In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following. (Ord. 920, Sec. 3, Eff. 10-29-81)

5721. Statements.

Statements by an owner or by anyone in control of the object concerning its use shall be considered. (Ord. 920, Sec. 3(1), Eff. 10-29-81)

5722. Prior Convictions.

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 shall be considered. (Ord. 920, Sec. 3(2), Eff. 10-29-81)

5723. Proximity to Violation.

The proximity of the object, in time and space, to a direct violation of this chapter shall be considered. (Ord. 920, Sec. 3(3), Eff. 10-29-81)

5724. Proximity to Controlled Substance.

The proximity of the object to any controlled substance shall be considered. (Ord. 920, Sec. 3(4), Eff. 10-28-81)

5725. Residue.

The existence of any residue of a controlled substance on the object shall be considered. (Ord. 920, Sec. 3(5), Eff. 10-29-81)

5726. Intent to Deliver.

Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to and person whom he knows, or should reasonably know, intends to use the object to facilitate a violation of this chapter shall be considered. The innocence of an owner or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia. (Ord. 920, Sec. 3(6), Eff. 10-29-81)

5727. Instructions.

Instructions, oral or written, provided with the object concerning its use shall be considered. (Ord. 920, Sec. 3(6), Eff. 10-29-81)

5728. Descriptive Materials.

Descriptive materials accompanying the object which explain or depict its use shall be considered. (Ord. 920, Sec. 3(8), Eff. 10-29-81)

5729. Advertising.

National and local advertising concerning the use of the object shall be considered. (Ord. 920, Sec. 3(9), Eff. 10-29-81)

5730. Display.

The manner in which the object is displayed for sale shall be considered. (Ord. 920, Sec. 3(10), Eff. 10-29-81)

5731. Legitimate Supplier.

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 shall be considered. (Ord. 920, Sec. 3(11), Eff. 10-29-81)

5732. Ratio of Sales.

Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise shall be considered. (Ord. 920, Sec. 3(12), Eff. 10-29-81)

5733. Legitimate Use.

The existence and scope of any legitimate use for the object in the community shall be considered. (Ord. 920, Sec. 3(13), Eff. 10-29-81)

5734. Expert Testimony.

Expert testimony concerning its use shall be considered. (Ord. 920, Sec. 3(14), Eff. 10-29-81)

5735. - 5739. RESERVED

PROHIBITED ACTIVITIES AND PENALTIES

5740. Use or Possession of Drug Paraphernalia Prohibited.

It shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia to manufacture, inject, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter. (Ord. 920, Sec. 4(1), Eff. 10-29-81)

5741. Penalty, Use or Possession of Drug Paraphernalia.

Any person who violates Section 5740.00 shall be guilty of a misdemeanor, and on conviction may be imprisoned for not more than one (1) year in the county jail or fined not more than one thousand dollars (\$1,000), or both. (Ord. 920, Sec. 4(2), Eff. 10-29-81)

5742. Delivery or Manufacture of Drug Paraphernalia Prohibited.

It shall be unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to manufacture, inject, ingest, inhale, or otherwise be used to introduce into the human body a controlled substance in violation of this chapter. (Ord. 920, Sec. 5(1), Eff. 10-29-81)

5743. Penalty, Delivery or Manufacture of Drug Paraphernalia.

Any person who violates Section 5742.00 shall be guilty of a misdemeanor and on conviction may be imprisoned for not more than one (1) year in the county jail, or fined not more than one thousand dollars (\$1,000), or both. (Ord. 920, Sec. 5(2), Eff. 10-29-81)

5744. Delivery of Drug Paraphernalia to Minor.

Any person eighteen (18) years of age or older who violates Section 5742.00 by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3)

years his junior shall be guilty of a separate misdemeanor. (Ord. 920, Sec. 6, Eff. 10-29-81)

5745. Penalty, Delivery of Drug Paraphernalia to Minor.

Any person who violates Section 5744.00 shall be guilty of a separate misdemeanor, and on conviction may be imprisoned for not more than one (1) year in the county jail, or fined not more than one thousand dollars (\$1,000), or both. (Ord. 920, Sec. 6, Eff. 10-29-81)

5746. Advertisement of Drug Paraphernalia Prohibited.

It shall be 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. (Ord. 920, Sec. 7(1), Eff. 10-29-81)

5747. Penalty, Advertisement of Drug Paraphernalia.

Any person who violates Section 5746.00 shall be guilty of a misdemeanor, and on conviction may be imprisoned for not more than one (1) year in the county jail, or fined not more than one thousand dollars (\$1,000), or both. (Ord. 920, Sec. 7(2), Eff. 10-29-81)

5748. Forfeiture and Disposition of Drug Paraphernalia.

That in the event any drug paraphernalia as described in Sections 5714.00 through 4714.04 has come into the custody of a peace officer in violation of the provisions of this chapter, then such paraphernalia shall be forfeited and disposed of as provided for in Section 195.140, RSMo., which provides for the forfeiture and disposal of controlled substances and certain devices or material in connection therewith. (Ord. 920, Sec. 8, Eff. 10-29-81)

5749. RESERVED