

ORDINANCE NO. 274

AN ORDINANCE AMENDING TITLE TWO, DIVISION ONE, CHAPTER ONE  
OF THE CITY CODE OF BUFFALO, IOWA REGARDING  
DRUG PARAPHERNALIA

BE IT ENACTED by the City Council of the City of  
Buffalo, Iowa:

Section 1: Title two, division one, chapter one is  
hereby amended to include an additional article, numbered article  
8, as follows:

ARTICLE 8  
DRUG PARAPHERNALIA

2.1-1.0801 DEFINITIONS.

The following words shall have the following meanings  
when used in this chapter:

A. 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 Act. It includes, but  
is not limited to:

1. 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;

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, dextrose 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, envelopes 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. Carburetion tubes and devices,
- d. Smoking and carburetion masks,
- e. 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,
- f. Miniature cocaine spoons and cocaine vials,
- g. Chamber pipes,
- h. Carburetor pipes,

- i. Electric pipes,
- j. Air-driven pipes,
- k. Chillums,
- l. Bonges,
- m. Ice pipes or chillers.

B. The term "controlled substance" means a controlled substance as defined in the Act.

C. The term "Act" means the Uniform Controlled Substances Act, Chapter 204, Code of Iowa, and regulations promulgated thereunder.

#### 2.1-1.0802 CRITERIA FOR DETERMINING DRUG PARAPHERNALIA.

In determining whether an object is drug paraphernalia, a court and the police department should consider the following factors in addition to all other logically relevant factors:

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 Act or this chapter;

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 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 the Act or this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of the Act or this chapter should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

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

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

I. National and local advertising concerning its use;

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

K. 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;

L. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

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

N. Expert testimony concerning its use.

#### 2.1-1.0803 POSSESSION PROHIBITED.

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 Act.

#### 2.1-1.0804 MANUFACTURE OR DELIVERY PROHIBITED.

It is 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 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 Act.

#### 2.1-1.0805 ADVERTISEMENT PROHIBITED.

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.

2.1-1.0806 PENALTY FOR VIOLATION.

Any person, firm, or corporation who violates any of the provisions of this chapter is guilty of a misdemeanor and upon conviction shall be fined up to one hundred dollars or imprisoned in the county jail for not more than thirty days.

Section 2: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.


Section 3: If any section, subsection, sentence, clause, or phrase 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, subsection, sentence, clause, or phrase hereof not adjudged invalid or unconstitutional.

Section 4: This ordinance shall become effective upon publication as required by law.

APPROVED by the City Council of the City of Buffalo, Iowa this 06 day of May, 1991.

APPROVED and signed by the Mayor of the City of Buffalo, Iowa this 06 day of May, 1991.

Signed:

  
Betty O. Walters, Mayor  
of Buffalo, Iowa

Attest:

  
Carol A. Bernauer, City Clerk  
of Buffalo, Iowa

#  
1 reading 5-6-91  
2 reading 5-6-91  
3 reading 5-6-91  
Adopted 5-6-91  
Published in Q.C. Times 5/15/91