

SHELBY COUNTY ORDINANCE NO. 2004-1  
AN ORDINANCE FOR THE PROTECTION OF THE  
COMMUNITY FROM DRUG PARAPHERNALIA

The following Ordinance is enacted by the Board of Supervisors of Shelby County, Iowa:

SECTION ONE

DEFINITIONS.

1. Controlled Substance. The term “controlled substance” as used in this chapter is defined as the term “controlled substance” is defined in the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa, as it now exists or is hereafter amended.
2. Drug Paraphernalia. The term “drug paraphernalia” as used in this chapter 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, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa. It includes, but is not limited to:
  - a. Growing Kits. 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. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
  - c. Isomerization Devices. Isomerization devised 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. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
  - e. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
  - f. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.
  - g. Separators – Sifters. 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. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.
  - i. Containers. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

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

k. Injecting Devices. Objects used, intended for use, or designed for use in ingesting, or otherwise introducing heroin, 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 bowls;
- (2) Water pipes;
- (3) Carburetor tubes and devices;
- (4) Smoking and carburetor masks;
- (5) 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;
- (6) Miniature cocaine spoons and cocaine vials;
- (7) Chamber pipes;
- (8) Carburetor pipes;
- (9) Electric pipes;
- (10) Air driven pipes;
- (11) Chillums;
- (12) Bongs;
- (13) Ice pipes or chillers.

## SECTION TWO

### DETERMINING FACTORS.

In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. 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.
3. Proximity to Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.
4. Proximity to Substance. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.
6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom such an owner or other person knows, or should reasonably know, intent to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.
7. Innocence of an Owner. 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, of use or designed for use as drug paraphernalia.

8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
10. Advertising. National and local advertising concerning its use.
11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. 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.
13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

### SECTION THREE

#### POSSESSION OF DRUG PARAPHERNALIA

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, 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 controlled substances in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

### SECTION FOUR

#### 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.

### SECTION FIVE

#### NUISANCE.

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Ordinance is guilty of a misdemeanor under this Ordinance and shall be punished by a fine of not more than five hundred dollars, or by imprisonment not to exceed thirty days.

Passed this 3<sup>rd</sup> day of February, 2004.

SHELBY COUNTY  
BOARD OF SUPERVISORS

/s/ ROGER SCHMITZ  
Chairman

/s/ GAYLE PETERSEN  
Member

/s/ RICHARD D. FERRY  
Member

ATTEST:

/s/ MARSHA J. CARTER  
Auditor, Shelby County