

CHAPTER 9.28 DRUG PARAPHERNALIA

Section

- [9.28.010 Purpose](#)
- [9.28.020 Definitions](#)
- [9.28.030 Display](#)
- [9.28.040 Distribution.](#)
- [9.28.050 Violation - penalty](#)

9.28.010 PURPOSE.

A. The illegal use of controlled substances within the incorporated area of the City creates serious social, medical, and law enforcement problems. The illegal use of the substances by persons under 18 years of age has reached crisis dimension. It is causing serious physical and psychological damage to the youth of this community, and impairment of educational achievement and of the efficiency of the educational system, increases in non-drug related crime, and a threat to the ability of the community to ensure future generations of responsible and productive adults; all to the detriment of the health, safety, and welfare of the citizens of the City.

B. The proliferation of the display of drug paraphernalia in retail stores within the City, and the distribution of the paraphernalia, intensifies and otherwise compounds the problem of illegal use of controlled substances within this community.

C. A ban only upon the display and distribution of drug paraphernalia to persons under 18 years of age would not be practical. The person who displays or distributes would have difficulty determining who could lawfully view or receive drug paraphernalia. The already thin staffed law enforcement agencies would be subjected to intolerable added enforcement burdens by adding age of a person who views or receives paraphernalia as an element of a prohibition upon display and distribution. A significant number of high school students are 18 years of age or older. It would be lawful to distribute paraphernalia to some students attending the same school in which the distribution to other students would be prohibited. Permitted display and distribution to adults within the community would symbolize a public tolerance of illegal drug use, making it difficult to explain the rationale of programs directed against similar abuse by youth. The problem of illegal consumption of controlled substances by adults within this community is significant and substantial, necessitating a cessation of the encouragement to drug abuse which the display and distribution of drug paraphernalia create.

D. This chapter is a measure which is necessary in order to discourage the illegal use of controlled substances within the City.

(Ord. 575, § 1, passed -- 1982)

9.28.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. A fixed location whether indoors or outdoors, at which merchandise is offered for sale at retail.

CONTROLLED SUBSTANCE. Those controlled substances as set forth in Cal. Health and Safety Code §§ [11054](#), [11055](#), [11056](#), [11057](#), and [11058](#) identified as Schedules I through V, inclusive, as the sections now exist or may hereafter be amended.

DISPLAY. To show to a patron or place in a manner so as to be available for viewing or inspection by a patron.

DISTRIBUTE. To transfer ownership or a possessory interest to another, whether for consideration or as a gratuity. DISTRIBUTE includes both sales and gifts.

DRUG PARAPHERNALIA. All equipment, products, and materials of any kind which are intended by a person charged with a violation of this chapter 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 any law of the state. **DRUG PARAPHERNALIA** includes, but is not limited to, all of the following:

1. Kits intended 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 intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
3. Isomerization devices intended for use in increasing the potency of any species of plant which is a controlled substance;
4. Testing equipment intended for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;
5. Scales and balances intended for use in weighing or measuring controlled substances;
6. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, intended for use in cutting controlled substances;
7. Separation gins and sifters intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
8. Blenders, bowls, containers, spoons, and mixing devices intended for use in compounding controlled substances;
9. Containers and other objects intended for use in storing or concealing controlled substances;
10. Objects intended for use in injecting, 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. Air-driven pipes; and
- j. Bongs.

11. In determining whether an object is ***DRUG PARAPHERNALIA***, a court or other authority may consider, in addition to all other logically 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 intent of an owner, or of anyone in control of the object, to deliver to persons whom he or she knows intend to use the object to facilitate a violation of the laws of the state relating to controlled substances;
- 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 and local advertising concerning its use;
- h. The manner in which the object is displayed for sale;
- i. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise;
- j. The existence and scope of legitimate uses for the object in the community; and
- k. Expert testimony concerning its use.

PATRON. A person who enters a business for the purpose of purchasing or viewing, as a shopper, merchandise offered for sale at the business.

(Ord. 575, § 2, passed -- 1982; Am. Ord. 870, § 13, passed 8-25-2008)

9.28.030 DISPLAY.

A. Except as authorized by law, it is unlawful for any person to willfully maintain or operate any business knowing, or under circumstances where one reasonably should know, that drug paraphernalia is displayed at the business.

B. Except as authorized by law, it is unlawful for any person who is the owner of a business, an employee thereof or one who works at the business as an agent of the owner, to willfully display drug paraphernalia at the business.

(Ord. 575, § 3, passed -- 1982)

9.28.040 DISTRIBUTION.

Except as authorized by law, it is unlawful for any person to willfully distribute to another person 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 any law of the state.

(Ord. 575, § 4, passed -- 1982)

9.28.050 VIOLATION - PENALTY.

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punishable as provided in Chapter [1.12](#).

(Ord. 874, § 22, passed 8-25-2008)