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## Chapter 9.08

### DRUG PARAPHERNALIA

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9.08.010 Statutory authority. This chapter is adopted pursuant to ORS 203.035(1) and by this section the county declares the subject of this chapter to be a matter of county concern. (Ord. 83-3-1 §I(A), 1983)

9.08.020 Applicability. Pursuant to ORS 203.040 this chapter does not apply inside an incorporated city. (Ord. 83-3-1 §I(B), 1983)

9.08.030 Definitions. As used in this chapter: A. "Controlled substance" means a drug or its immediate precursor classified in Schedules I through V under the Federal Controlled Substances Act, 21 USC, Sections 811 to 812, as modified under ORS 475.035.

#### B. Drug Paraphernalia.

1. "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 this chapter. It includes, but is not limited to:

- a. 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. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- c. Isomerization devices 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 used, intended for use, or designed for use in

identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

e. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

g. Separation gins and sifters used, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

h. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

i. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

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

k. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

l. 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:

i. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls,

ii. Water pipes,

iii. Carburetion tubes and devices,

iv. Smoking and carburetion masks;

v. 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,

vi. Miniature cocaine spoons, and cocaine vials,

vii. Chamber pipes,

viii. Carburetor pipes,

ix. Electric pipes,

x. Air-driven pipes,

xi. Chillums,

xii. Bongs,

xiii. Ice pipes or chillers.

2. In determining whether an object is drug paraphernalia, a court or other authority should 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. 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 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 whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as 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;

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. (Ord. 83-3-1 §2, 1983)

9.08.040 Possession unlawful--Penalty. 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 this chapter. Any person who violates this section shall be fined not more than five hundred dollars. (Ord. 83-3-1 §3(A), 1983)

9.08.050 Manufacture or delivery unlawful--Penalty. It is unlawful for any person to deliver, 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 this chapter. Any person who violates this section shall be fined not more than five hundred dollars. (Ord. 83-3-1 §3(B), 1983)

9.08.060 Delivery to a minor unlawful--Penalty. Any person eighteen years of age or over who violates Section 9.08.050 by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior shall be fined not more than five hundred dollars. (Ord. 83-3-1 §3(C), 1983)

9.08.070 Advertisement unlawful--Penalty. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, known, 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. Any person who violates this section shall be fined not more than five hundred dollars. (Ord. 83-3-1 §3(D), 1983)