Chapter 6.12 Drug Abuse and Paraphernalia

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6.12.010 Definitions.
As used in this chapter, the following terms shall have the meanings as defined herein.
a."Controlled substance" means a narcotic drug as defined in AS 17.10.230(13) and as supplement by any regulations adopted under AS 17.10; and a depressant, hallucinogenic, or stimulant drug as defined in AS 17.12.150(3) and as supplemented by any regulations adopted under AS 17.12; and shall also include marijuana, hashish and cocaine.
b."Drug paraphernalia" means all items, equipment, devices, products and materials of any kind which are used, or intended 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 as defined herein. Drug paraphernalia includes, but is not limited to:
1.Kits used or intended for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is controlled substance or from which a controlled substance can be derived;
2.Kits used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
3.Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;
4.Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances except for use by or under the direction of law enforcement agencies or medical research or treatment facilities;
5.Scales and balances used or intended for use in weighing or measuring controlled substances;
6.Diluents and adulterants, such as quinine hydrochloride, mannitol, manite, dextrose and lactose, used or intended for use in cutting controlled substances;
7.Separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
8.Blenders, bowls, containers, spoons and mixing devices used or intended 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 or intended for use in storing or concealing controlled substances;
11.Hypodermic syringes, needles and other objects used or intended for use in parenterally injecting, controlled substances into the human body;
12.Objects used or intended for use in injecting, 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;
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:

1. Statements by the manufacturer, owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state of federal law relating to any controlled substance;
3.The proximity of the object, in time and space, to a direct violation of AS 17.10 or AS 17.12;
4.The proximity of the object to controlled substance;
5.The existence of any residue of controlled substances on the object;
6.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 AS 17.10 or AS 176.12; the innocence of an owner, or of anyone in control of the object, as to a direct violation of AS 17.10 or AS 17.12, shall not prevent a finding that the object is intended for use as drug paraphernalia;
7.Instructions, oral or written, provided with the object concerning its use;
8.Descriptive materials accompanying the object which explain or depict its use;
9.National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11.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;
12.Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
13.The existence and scope of legitimate uses for the object in the community;
14.Expert testimony concerning its use.
c."Sell" or "sale" means the commercial transfer of ownership, possession of use of drug paraphernalia in the regular course of a wholesale or retail business for consideration of any type. (Ord. 82-19 1(part), 1982).

6.12.020 Sale of drug paraphernalia unlawful.
It is unlawful for any person to sell, or possess with intent to sell, drug paraphernalia, knowing 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, except as specifically authorized and permitted under the provisions of AS Title 17 and by such rules and regulations as are adopted pursuant thereto. (Ord. 82-19 1(part), 1982).

6.12.030 Penalties.
a. Any person who violates any provision of this chapter shall be punished under the general penalty provision of the Homer Municipal Code, or be subject to injunctive relief to restrain the person from continuing the violation or threat of violation, or both injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter, the Superior Court shall grant injunctive relief to restrain the violation.
b. Any item sold or possessed with the intent to sell by any person after a court has adjudicated such an item to constitute drug paraphernalia as defined by Section 6.12.010 shall be subject to forfeiture of the paraphernalia to the City upon order of the court entered in any injunction proceedings instituted under the authority of this section or in a separate forfeiture action instituted by the City. (Ord. 82-19 1(part), 1982).

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