

Chapter 9.08

DRUG PARAPHERNALIA

Sections:

9.08.010	Definitions.
9.08.020	General Prohibitions.
9.08.030	Exceptions.
9.08.040	Minors.
9.08.050	License Required.
9.08.060	Required Records.
9.08.070	Use Permit Required
9.08.080	Unauthorized Sale Declared Public Nuisance
9.08.090	Violation — Penalty

9.08.010 Definitions.

(A) “Business” means a fixed location whether indoors or outdoors, at which merchandise is displayed or offered for distribution.

(B) “Display” means to show to a patron, or place in a manner so as to be available for viewing or inspection by a patron.

(C) “Distribute” means to transfer ownership or a possessory interest to another, whether for consideration or as a gratuity. “Distribute” includes both sales and gifts.

(D) “Drug Paraphernalia” includes any of the items possession of which is prohibited by Section 11364 or 11364.1 of the State Health and Safety Code, or any other statute, law or regulation. “Drug Paraphernalia” also means all equipment, products, and materials of any kind which are 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. “Drug Paraphernalia” includes, but is not limited to, all of the following:

(1) Kits 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 intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment intended for use or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances 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, intended for use or designed for use in cutting controlled substances.

(7) Separation gins and sifters 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 intended for use or designed for use in compounding controlled substances.

(9) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.

(12) Objects 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 the following:

(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) Bongs.

(m) Ice pipes or chillers. (Ord. 293 §1, 1980)

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:

(1) Statements by an 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 or federal law relating to any controlled substance.

(3) 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 or she knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as Drug Paraphernalia.

(4) Instructions, oral or written, provided with the object concerning its use.

(5) Descriptive materials, accompanying the object which explain or depict its use.

(6) National and local advertising concerning its use

(7) The manner in which the object is displayed

for sale.

(8) 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.

(9) The existence and scope of legitimate uses for the object in the community.

(10) Expert testimony concerning its use.

(E) "Minor" means any person under eighteen (18) years of age.

(F) "Patron" means a person who enters a business for the purpose of purchasing or viewing as a shopper merchandise displayed or offered distribution at the business.

(G) "Person" means a natural person or any firm, partnership, association, corporation or cooperative association. (Ord. 293 § 1, 1980; Ord. 695 §1, 2004, Ord. 806 §1, 2013)

9.08.020 General Prohibition.

No person or business shall display or offer for distribution, in a place of business open to the public, any Drug Paraphernalia. (Ord. 695 §1, 2004)

9.08.030 Exceptions

(A) Separate Room. The prohibition set forth in Section 9.08.020 of this chapter shall not apply when Drug Paraphernalia are displayed or offered for distribution in a separate room or enclosure to which minors not accompanied by a parent or legal guardian are excluded. The entrance to such a room or enclosure shall be conspicuously posted with a sign clearly indicating that Drug Paraphernalia are displayed or offered for distribution therein, and that minors may not enter such room. (Ord. 293 § 2, 1980)

(B) Hydromeric Syringes.

(1) The prohibition set forth in Section 9.08.020 of this chapter shall not apply to any physician, dentist, podiatrist, veterinarian, pharmacist or other authorized person who distributes hypodermic syringes, needles and other objects intended to use or designed for use in parenterally injecting controlled substances into the human body.

(2) The prohibition set forth in Section 9.08.020 of this chapter shall not apply to any manufacturer, wholesaler or retailer licensed by the California State Board of Pharmacy to distribute hypodermic syringes, needles and other objects intended to use or designed for use in parenterally injecting controlled substances into the human body. (Ord. 695 §1, 2004)

(C) Additional Exceptions.

(1) The prohibition set forth in Section 9.08.020 of this chapter shall not apply to any pharmacist or other authorized person who sells or furnishes drug paraphernalia upon the prescription of a physician, dentist, podiatrist or veterinarian.

(2) The prohibition set forth in Section 9.08.020 of this chapter shall not apply to any physician, dentist, podiatrist or veterinarian who furnishes or prescribes drug paraphernalia to his or her patients.

(3) The prohibition set forth in Section 9.08.020 of this chapter shall not apply to any manufacturer, wholesaler or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia. (Ord. 806 §1, 2013)

9.08.040 Minors.

(A) Sale Prohibited. No person or business open to the public shall distribute Drug Paraphernalia to any minor. (Ord. 293 § 4, 1980)

(B) Purchase of Drug Paraphernalia Prohibited. No person under the age of eighteen years shall purchase Drug Paraphernalia at a place of business open to the public. (Ord. 293 § 6, 1980)

(C) Entrance to Separate Room Prohibited.

(1) No minor shall enter, be in, remain in or visit a room at a place of business open to the public in which Drug Paraphernalia are displayed or offered for distribution unless such minor person is accompanied by a parent or legal guardian. (Ord. 293 § 5 1980)

(2) No person in control of any place of business open to public shall allow a minor to enter, be in, remain in or visit a room at such place of business in which Drug Paraphernalia are displayed

or offered for distribution unless such minor person is accompanied by a parent or legal guardian. (Ord. 293 § 3, 5 1980; Ord. 695 §1, 2004)

9.08.050 License Required.

(A) No persons or business open to the public shall distribute Drug Paraphernalia as authorized by this Chapter without first obtaining a license as described herein. Such license shall be in addition to any other licenses held or required to be held by applicant. Such licenses are not transferable.

(B) Annual applications for licenses shall be made to the Chief of Police upon forms supplied by his office and shall require that the following be furnished:

(1) The name of the applicant and of each of its officers, partners, business associates, and managers.

(2) The location of the business and its name, if different from applicant's name.

(3) Acknowledgment and representation by applicant that it is familiar with the requirements of this Chapter and will inform all persons it employs within this municipality of the requirements thereof.

(4) The annual license fee shall be \$500.00.

(5) Such application shall be accompanied by an affidavit by each individual applicant and each person employed by the applicant within the municipality that such person has never been convicted of a drug abuse offense.

(6) A separate license shall be required for each location at which Drug Paraphernalia are displayed or offered for distribution within the City of Ripon.

(C) Within fifteen days after an application is received for such licenses, an inspection of the premises will be made by the Chief of Police or his designated representative for purpose of determining whether the premises comply with the requirements of this Chapter. In particular, any such premises must be reasonably designed so as to limit the controlled entry of minors into an area where Drug Paraphernalia are displayed or offered for distribution. (Ord. 695 §1, 2004)

9.08.060 Required Records.

(A) Every person or business who obtains a

license to distribute Drug Paraphernalia as authorized by this Chapter must keep an accurate record of every item of Drug Paraphernalia which is sold by the person or business.

(B) Such records shall contain the following information:

- (1) The name and address of the purchaser.
- (2) The name and quantity of the product and the generic name or type of product.
- (3) The date and time of sale.
- (4) Signature of the person, business or authorized agent thereof.
- (5) The type of identification used to verify the age of purchaser.

(C) The records described in herein shall be retained by the person or business licensed for not less than two years and shall be open to the inspection of the Chief of Police or his designated representative upon request at reasonable times during the two year period. (Ord. 695 §1, 2004)

9.08.070 Use Permit Required.

Any person or business which displays or offers for distribution Drug Paraphernalia shall only conduct such business within the C-4 zone of the City, and shall first obtain a Use Permit in

accordance with Chapter 16.76. (Ord. 695 §1, 2004)

9.08.080 Unauthorized Sale Declared Public Nuisance.

The display or offer for distribution of Drug Paraphernalia in a place of business open to the public, except as permitted in this chapter, is declared to be a public nuisance and may be abated pursuant to Section 731 of the Code of Civil Procedure of the state. (Ord. 293 § 7, 1980; Ord 695 §1, 2004)

9.08.090 Violation – Penalty.

(A) Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in Chapter 1.08 of this code. (Ord. 293 § 9, 1980; Ord. 695 §1, 2004)

(B) Violation of any of the provisions of this Chapter shall constitute grounds for revocation of any business license issued by the City of Ripon to a business upon the premises of which the violation has occurred. Revocation of a business license shall be pursuant to procedures adopted by the City. (Ord. 695 §1, 2004)