

Charter Township of Orion

Ordinance No. 124

Drug Paraphernalia

Adopted January 3, 2000

AN ORDINANCE REGULATING THE POSSESSION, MANUFACTURE, SALE, DELIVERY AND ADVERTISEMENT OF DRUG PARAPHERNALIA AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.**ARTICLE I - TITLE**

This Ordinance shall be known and cited as the Orion Township "Drug Paraphernalia Ordinance," and it shall be deemed sufficient, in any actions for the enforcement hereof, to define the same by such short title, or by reference to the number hereof.

ARTICLE II - DRUG PARAPHERNALIA

- A. The term "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, producing, processing, preparing, concealing, injecting, ingesting, inhaling, or otherwise introducing into a human body a controlled substance in violation of State or local law. It includes, but is not limited to:
1. 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;
 2. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
 3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;
 4. Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
 5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substance;
 6. Dilutents and adulterants, such a quinine, hydrochlorine, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
 7. 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;
 8. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed 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, intended for use, or designed for use in storing or concealing controlled substances;
 11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
 12. 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:
 - 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 materials, 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.
- B. 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 an owner or by anyone in control of the object concerning its use;
 - 2. The proximity of the object, in time and space, to direct violation of State law;
 - 3. The proximity of the object to controlled substances;
 - 4. The existence of any residue of controlled substances on the object;
 - 5. 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 intend to use the object to facilitate or violation of State or local law. The innocence of an owner, or of anyone in control of the object, as to a direct violation of State law shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
 - 6. Instruction, oral or written, provided with the object concerning its use;
 - 7. Descriptive materials accompanying the object which explain or depict its use;
 - 8. National and local advertising concerning its use;
 - 9. The manner in which the object is displayed for sale;
 - 10. 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;
 - 11. Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise;
 - 12. The existence and scope of legitimate uses for the object in the community;
 - 13. Expert testimony concerning its use.
- C. 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, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of State or local law.

- D. It is unlawful for any person to deliver, sell, possess with intent to deliver or sell or manufacture with intent to deliver or sell drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, 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 State or local law.
- E. It is unlawful for any person to place in any newspaper, magazine, handbill, sign, poster, or other publication any advertisement, knowing 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.
- F. This section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists and embalmers in the normal legal course of their respective business or profession, nor shall it apply to persons suffering from diabetes, asthma or any other medical conditions requiring use of an instrument otherwise characterized in this Ordinance as drug paraphernalia for purposes of self-injection.
- G. Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this section shall be seized and forfeited to the Township.

ARTICLE III - PENALTY

Any person convicted of a violation of any of the provisions of this Ordinance shall be punished by a fine of not more than Five Hundred Dollars (\$500) or by imprisonment in the Oakland County Jail for not more than ninety (90) days or both such fine and imprisonment in the discretion of the Court.

ARTICLE IV - SEVERABILITY

If any Article, section, subsection, sentence, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any court of competent jurisdiction, such Article, section subsection, sentence, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance; but the remainder of this Ordinance shall stand and be in full force and effect.

ARTICLE V - EFFECTIVE DATE

This Ordinance shall be published in a newspaper of general circulation in the Township of Orion, and shall become effective upon publication, as provided by law.

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