

ORDINANCE #1213

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO AMEND CHAPTER 622, SECTION 622.01, OF THE LANSING CODIFIED ORDINANCES BY EXCLUDING DRUG PARAPHERNALIA DISTRIBUTED BY A FEDERAL, STATE OR LOCAL GOVERNMENTAL AGENCY TO PREVENT THE TRANSMISSION OF INFECTIOUS AGENTS.

THE CITY OF LANSING ORDAINS:

Section 1. That Chapter 622, Section 622.01(e) of the Codified Ordinances of the City of Lansing, Michigan, be and is hereby amended to read as follows:

622.01. - Drug paraphernalia.

(a) *Drug Paraphernalia Defined.*

- (1) As used in this section, "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, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of State or local law. It includes, but is not limited to:
 - A. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;
 - B. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
 - C. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;
 - D. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;
 - E. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;
 - F. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;
 - G. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived;
 - H. 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. Air-driven pipes;
 1. Bongs;
 2. Carburetion tubes and devices;

3. Carburetor pipes;
 4. Chamber pipes;
 5. Chillums;
 6. Electric pipes;
 7. Ice pipes or chillers;
 8. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;
 9. Miniature cocaine spoons and cocaine vials;
 10. Roach clips, meaning objects used to hold burning materials, such as marijuana cigarettes, that have become too small or too short to be held in the hand;
 11. Smoking and carburetion masks; and
 12. Water pipes;
 - J. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;
 - K. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or otherwise cleaning or refining, marijuana; and
 - L. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- (2) In determining whether an object is "drug paraphernalia," a court or other authority shall 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 controlled substances;
 - C. The proximity of the object, in time and space, to a direct violation of State law;
 - 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 or she knows intends to use the object to facilitate a 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.
 - G. Instruction, 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 of or dealer in tobacco products;
 - L. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
 - M. The existence and scope of legitimate uses for the object in the community; and
 - N. Expert testimony concerning its use.
- (b) *Possession*. No person shall use, or 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 State or local law.
 - (c) *Manufacture, Delivery or Sale*. No person shall deliver, sell, process with intent to deliver or sell, or manufacture with intent to deliver or sell, drug paraphernalia, knowing 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 law.
 - (d) *Advertisement*. No person shall 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.
 - (e) *Exceptions*. 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 to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.; NOR INCLUDE DRUG PARAPHERNALIA SOLD, OFFERED FOR SALE, OR GIVEN AWAY BY A FEDERAL, STATE OR LOCAL GOVERNMENTAL AGENCY, INCLUDING A COUNTY HEALTH DEPARTMENT OR A NON PROFIT CORPORATION DESIGNATED BY THE COUNTY HEALTH DEPARTMENT, TO PREVENT THE TRANSMISSION OF INFECTIOUS AGENTS.
 - (f) *Civil Forfeiture*. 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 and may be destroyed after sixty days.

Section 2. All ordinances, resolutions or rules, parts of ordinances, resolutions or rules inconsistent with the provisions hereof are hereby repealed.

Section 3. Should any section, clause or phrase of this ordinance be declared to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

Section 4. This ordinance shall take effect on the 30th day after enactment, unless given immediate effect by City Council.