

**AN ORDINANCE TO PROHIBIT THE MANUFACTURE,
ADVERTISEMENT, POSSESSION, POSSESSION WITH INTENT TO
DELIVER, AND/OR DELIVERY OF DRUG PARAPHERNALIA**

ORDINANCE NO. 4

Section A. SHORT TITLE AND CITATION.

This Ordinance shall be known and cited as the Jackson County Drug Paraphernalia Ordinance.

Section B. DEFINITIONS.

(1) 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, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Public Health Code of the State of Michigan. 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, intended for use, 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 Ordinance;
- (d) The existence 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 he knows, or should reasonably know, to use the object to facilitate a violation of this Ordinance; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Act should 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 material 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.

Section C. OFFENSES.

(1) Possession of Drug Paraphernalia. 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 Ordinance.

(2) Manufacture, Sale, or Delivery of Drug Paraphernalia. It is unlawful for any person to sell, deliver, 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, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, stone, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this Ordinance.

(3) Advertisement of Drug Paraphernalia. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, 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 any objects designed or intended for use as drug paraphernalia.

Section D. EXCEPTIONS.

This Ordinance shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiroprudists, 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.

Section E. CIVIL FORFEITURE.

Any drug paraphernalia used, sold, possessed with intent to use, sell, or deliver, or manufactured with the intent to use, sell, or deliver, in violation of this Ordinance, shall be seized and forfeited to the County of Jackson.

Section F. PENALTY.

Any person who shall be convicted of a violation of any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment not to exceed ninety (90) days, or both. Each day a violation continues shall be considered a separate offense and may be punished accordingly.

Section G. SEVERABILITY.

If any section, subsection, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this Ordinance, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section H. PURPOSE OF ORDINANCE.

This Ordinance is declared necessary for the preservation of the public peace, health, safety and welfare of the people of the County of Jackson.

Section I. EFFECTIVE DATE.

This Ordinance, after having been duly transmitted to the Governor of the State of Michigan for approval and, if approved by the Governor or otherwise approved in accordance with law, adopted by the Jackson County Board of Commissioners on September 25, 1986, shall take effect on January 1, 1987, provided a copy thereof has been published in the Jackson Citizen Patriot Newspaper.

ADOPTED the 25th day of September, 1986.

Constance P. Miller, Chairperson
Jackson County Board of Commissioners

ATTESTED AND CERTIFIED TO BE A TRUE COPY:

Jean S. Kahn, Jackson County Clerk