

**LODI TOWNSHIP
WASHTENAW COUNTY
MICHIGAN**

Ordinance #2019-001

AN ORDINANCE ADOPTED PURSUANT TO PUBLIC ACT 246 OF 1945 AS AMENDED (MCL 41.181 *et seq.*) TO SECURE THE PUBLIC SAFETY, HEALTH, AND WELFARE OF THE RESIDENTS AND PROPERTY OWNERS OF THE TOWNSHIP OF LODI, WASHTENAW COUNTY, MICHIGAN, TO UPDATE AND AMEND THE "LODI TOWNSHIP DRUG PARAPHERNALIA ORDINANCE" TO CONTROL AND REGULATE DRUG PARAPHERNALIA AND CONTROLLED SUBSTANCES WHERE NOT PREEMPTED BY STATE LAW, AND TO PROVIDE PENALTIES AND REMEDIES FOR VIOLATIONS.

THE TOWNSHIP OF LODI, WASHTENAW COUNTY, MICHIGAN, ORDAINS:

Section 1: Title.

This ordinance shall be known and cited as the "Lodi Township Drug Paraphernalia Ordinance."

Section 2: Definitions.

- (a) The term "controlled substance" shall be defined as provided for in part 71 of the public health code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.7101 *et seq.*), as amended.
- (b) The term "drug paraphernalia" means any equipment, products, and materials, or a combination of equipment, products or materials, which is specifically 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, including, but not limited to, all of the following:
 - (1) An isomerization device specifically designed for use in increasing the potency of any species of plant which plant is a controlled substance.
 - (2) Testing equipment specifically designed for use in identifying or in analyzing the strength, effectiveness or purity of a controlled substance.
 - (3) A weight scale or balance specifically designed for use in weighing or measuring

a controlled substance.

- (4) A diluent or adulterant, including, but not limited to quinine hydrochloride, mannitol, mannite, dextrose and lactose, specifically designed for use with a controlled substance.
- (5) A separation gin or sifter specifically designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
- (6) An object specifically 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. Smoking and carburetion masks;
 - d. 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;
 - e. Miniature straws, cocaine spoons, and cocaine vials;
 - f. Chamber pipes;
 - g. Carburetor pipes;
 - h. Miniature lockets, rings, or vials designed, marketed, or used for the storing of controlled substances.
- (7) A device commonly known as a cocaine kit, that is specifically designed for use in ingesting, inhaling or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade and a mirror.
- (8) A device commonly known as a bullet, that is specifically designed to deliver a measured amount of controlled substance to the user.
- (9) A device commonly known as a snorter, that is specifically designed to carry a small amount of controlled substances to the user's nose.
- (10) A device commonly known as an automotive safe, that is specifically designed to carry and conceal a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.

- (11) A spoon, with or without a chain attached, that has a small diameter bowl and that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body.
 - (12) Blenders, bowls, containers, spoons, and mixing devices used intended for use, or designed for use in compounding-controlled substances.
 - (13) Capsules, balloons, envelopes, and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
 - (14) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
 - (15) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
- (c) 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 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 substances;
 - (3) The proximity of the object, in time and space, to a direct violation of the state law;
 - (4) The proximity of the object to controlled substances;
 - (5) The existence of any residue of controlled substances on the object;
 - (6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of state or local law or of this subdivision; the innocence of an owner, or of anyone in control of the object, as to a direct violation of state, local law or this division, shall not prevent a finding that the object is intended for use, or designed 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 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 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.

Section 3: Possession of drug paraphernalia; penalty.

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 state law. A person who violates this section is responsible for a municipal civil infraction or guilty of a misdemeanor as follows:

- (a) If the controlled substance in violation of state law is marihuana, the person is responsible for a municipal civil infraction, subject to payment of a civil fine as follows:
 - a. 1st offense (no other offense within the previous two years): One Hundred Dollars (\$100.00).
 - b. 2nd offense (one other offense within the previous two years): Two Hundred Fifty Dollars (\$250.00).
 - c. 3rd or greater offense (three or more offenses within the previous two years): Five Hundred Dollars (\$500.00).
- (b) If the controlled substance in violation of state law is a controlled substance other than marihuana, the person shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$500.00, or both, in the discretion of the court.

Section 4: Manufacture, delivery, or sale of drug paraphernalia; penalty.

It is unlawful for any reason to deliver, sell, possess 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.

Any person who violates this section is guilty of a misdemeanor, punishable by

imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

Section 5: Advertising the sale of drug paraphernalia; penalty.

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, knowing that the drug paraphernalia 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.

Any person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

Section 6: Presence in or around places where controlled substances or drug paraphernalia are illegally stored or kept; penalty.

No person shall knowingly loiter about or frequent, or remain in or around any building, house, vacant lot, street, curb, lawn, alley, yard, apartment, store, automobile, boat, boat house, airplane or other place of any description whatsoever where controlled substances in violation of state law or drug paraphernalia in violation of this ordinance are illegally sold, dispensed, furnished, given away, stored or kept. A person who violates this section is responsible for a municipal civil infraction or guilty of a misdemeanor as follows:

- (a) If the controlled substance in violation of state law is marihuana or paraphernalia that would be a municipal civil infraction under section 3 of this ordinance, the person is responsible for a municipal civil infraction, subject to payment of a civil fine as follows:
 - a. 1st offense (no other offense within the previous two years): One Hundred Dollars (\$100.00).
 - b. 2nd offense (one other offense within the previous two years): Two Hundred Fifty Dollars (\$250.00).
 - c. 3rd or greater offense (three or more offenses within the previous two years): Five Hundred Dollars (\$500.00).

- (b) If the controlled substance in violation of state law is a controlled substance other than marihuana or paraphernalia that would be a misdemeanor under section 3 of this ordinance, the person shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$500.00, or both, in the discretion of the court.

Section 7: 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, chiropractors, veterinarians, pharmacists, and embalmers in the normal legal course of their respective business or profession where legal under state law, nor to persons suffering from diabetes, asthma, or any other medical condition requiring self-injection or to persons licensed by the state to engage in the activity prohibited in section 6.

Section 8: Civil forfeiture.

Any controlled substance or drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this ordinance shall be seized and forfeited to the township.

Section 9: Severability

The provisions of this Ordinance are hereby declared to be severable and if any part is declared invalid for any reason by a court of competent jurisdiction it shall not affect the remainder of the Ordinance which shall continue in full force and effect.

Section 10: Repeal

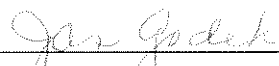
All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 11: Savings Clause.


The repeal provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

Section 12: Effective Date

This Ordinance shall be published once in a newspaper having general circulation in Lodi Township and shall take effect 30 days after the first publication as required by law following adoption by the Township Board.



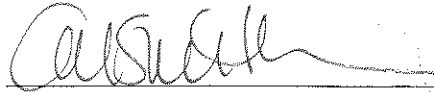
Jan Godek, Township Supervisor



Christina Smith, Township Clerk

Clerk's Certification

I, Christina Smith, Clerk for Lodi Township, Washtenaw County, Michigan, hereby certify that the foregoing is a true and correct copy of Ordinance #2019-001 of Lodi Township, adopted by resolution at a meeting of the Township Board of Trustees held on January 8, 2019, and the whole thereof now in my custody.



Christina Smith, Township Clerk

A copy of the complete ordinance text may be inspected or purchased at the Lodi Township Hall, 3755 Pleasant Lake Road, Ann Arbor, Michigan 48103. The office hours are 8:30 a.m. until noon Monday through Friday.

Adopted: January 8, 2019

Published: January 16, 2019

Effective: February 16, 2019

