

ORDINANCE NO. 58 -82

BY:

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An Ordinance defining, regulating and controlling the possession and sale of drug paraphernalia.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY,  
OHIO:

DRUG PARAPHERNALIA DEFINED

Section 1. "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, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, enhancing the effect of or otherwise introducing into the human body a controlled substance, as defined in Ohio R. C. Chapter 3719. 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 marihuana;
- (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; and
- (L) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:
  - (1) Metal, wooden, acrylic, glass, stone, plastic, ceramic pipes with or without a screen, permanent screens, hashish heads or punctured metal bowls;
  - (2) Water pipes;
  - (3) Carburetion tubes and devices;
  - (4) Smoking and carburetion masks;
  - (5) Roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
  - (6) Miniature cocaine spoons and cocaine vials;
  - (7) Chamber pipes;
  - (8) Carburetor pipes;
  - (9) Electric pipes;
  - (10) Air-driven pipes;
  - (11) Chillums;
  - (12) Bongs;

(13) ice pipes or chillers; and

(14) Rolling paper and rolling machines.

Section 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 any person in control, of the object concerning its use;
- (B) The proximity of the object, in time and space, to a direct violation of this chapter;
- (C) The proximity of the object to controlled substances;
- (D) The existence of any residue of controlled substances on the object;
- (E) Direct or circumstantial evidence of the intent of an owner, or of any person in control, of the object to deliver it to persons whom he knows intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of any person in control, of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as "drug paraphernalia".
- (F) Instructions, written or oral, provided with the object concerning its use;
- (G) Descriptive materials accompanying the object which explain or depict its use;
- (H) National and local advertising concerning its use;
- (I) The manner in which the object is displayed for sale;
- (J) The existence and scope of legitimate uses for the object in the community; and
- (K) Expert testimony concerning its use.

POSSESSION AND SALE OF DRUG PARAPHERNALIA

Section 3. 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 chapter.

Section 4. It is unlawful for any person to deliver, sell, or possess with intent to deliver or sell, drug paraphernalia, knowing that it shall be used 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 chapter.

Section 5. It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of an object designed or intended for use as drug paraphernalia.

Section 6. This ordinance does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4731 and 4741.

Section 7. Any drug paraphernalia used in violation of this section shall be seized and forfeited to the Municipality.

Section 8. If any provision of this section or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

#### PENALTY

Section 9. Whoever violates any of the provisions of Sections (3), (4), or (5) hereof, is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of any violation of sections (3), (4), or (5) hereof, any subsequent violation of either section (3), (4) or (5) hereof is a misdemeanor of the first degree. Any person who violates section (4) hereof by delivering or selling drug paraphernalia to any person under eighteen years of age is guilty of a misdemeanor of the