

CITY OF POTTERVILLE  
EATON COUNTY, MICHIGAN  
ORDINANCE NO. 13-237

AN ORDINANCE TO AMEND THE CODE OF THE  
CITY OF POTTERVILLE BY AMENDING  
CHAPTER 20, ARTICLE VII,  
BY ADDING SECTION 20-185 TO 20-191  
ENTITLED DRUG PARAPHERNALIA

CHAPTER 20  
**OFFENSES**

ARTICLE VII  
**OFFENSES AGAINST PUBLIC SAFETY**

Section 20-185. Definitions; determination.

(A) Term Defined. The term "drug paraphernalia" means all equipment, products or 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:

- (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 or balances used, intended for use or designed for use in weighing or measuring controlled substances.
- (6) Diluents and adulterants, such as quinine hydrochloride 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 or 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 designated for 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 methamphetamine 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 puncture metal bowls;

(b) Water pipes;

(c) Smoking carburization 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 cocaine spoons and cocaine vials:

(f) Chamber pipes;

(g) Carburetor pipes;

1 (B) Determination. 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 objects concerning its use:

(2) Prior convictions, in 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 circumstantial evidence of the intent of an owner, or anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonable know, intend to use the object to facilitate a violation of state or local law or of this act; the innocence of an owner, or of anyone in control of the object, as to a direct violation of state, local law or this act; 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 legitimate supplier of like or related items to the community, such as a licensed distributor or dealer or tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object(s) 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 20-186- Possession prohibited** - It is unlawful for any person to use, for 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 or local law.

**Section 20-187- Manufacture. delivery or sale prohibited** - 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 or local law.

**Section 20-188 - Advertisement prohibited** - 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.

**Section 20-189 - Exceptions** - This article shall not apply to manufacturers, wholesalers, 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, not to persons suffering from diabetes, asthma or any other medical condition requiring self-injection.

**Section 20-190 - Civil Forfeiture** - Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this article shall be seized and forfeited to the City of Potterville.

**Section 20-191 - Penalty for violation** - Any person who shall be convicted of violation of any of the provisions of this article shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed ninety (90) days, or both, at the discretion of the court. Each day a violation continues shall be considered a separate offense and may be punished accordingly.

THIS ORDINANCE SHALL TAKE EFFECT 45 DAYS AFTER PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE CITY OF POTTERVILLE

THE FOREGOING ORDINANCE WAS INTRODUCED ON MAY 16, 2013 AT A REGULAR MEETING OF THE POTTERVILLE CITY COUNCIL BY M. STORIE AND SECONDED BY L. AMEY AND A PUBLIC HEARING WAS SCHEDULED FOR JUNE 20, 2013.

AT A REGULAR MEETING OF THE CITY COUNCIL ON JULY 18, 2013, L. AMEY MADE A MOTION TO ADOPT ORDINANCE # 13-237 DRUG PARAPHERNALIA. R. NORMAN SECONDED.

YEAS: L. AMEY, J. BUSSARD, J. FRENCH, K. ANTCLIFF, R. NORMAN, D. HARTSON  
NAYS: NONE

ATTEST:

---

Brandi Brace – Pottersville City Clerk