

CHAPTER 620
Drugs

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CROSS REFERENCES

Pharmacy practice and drug control - see M.C.L.A. Secs. 333.17701 et seq.

Controlled substances - see M.C.L.A. Secs. 333.7101 et seq.

Drugs at open house parties - see GEN. OFF. 658.02

620.01 CONTROLLED SUBSTANCE AND NARCOTIC DRUG DEFINED.

As used in this chapter, "controlled substance" and "narcotic drug" have the meanings given to those terms in M.C.L.A. 333.7104 and 333.7107, as amended.

620.02 POSSESSION AND USE OF MARIJUANA.

(a) As used in this section, "marijuana" means all parts of the plant *cannabis* (sic) *sativa* L., growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

(b) No person shall possess or control marijuana within the City unless such possession or control is pursuant to a license or prescription, or otherwise allowed under Act 368 of the Public Acts of 1978, as amended.
(M.C.L.A. Secs. 333.1101 et seq.)

(c) No person shall use marijuana in the City unless such use is pursuant to a license or prescription or otherwise allowed as provided in Act 368 of the Public Acts of 1978, as amended.
(M.C.L.A. Secs. 333.1101 et seq.)

620.03 POSSESSION AND USE OF OTHER CONTROLLED SUBSTANCES.

No person shall manufacture, administer, deliver, possess, distribute, prescribe or dispense any controlled substance, except as authorized by this chapter.

620.04 PARAPHERNALIA.

- (a) Definition. As used in this section, "drug paraphernalia" is defined as follows:
- (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, 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. "Drug paraphernalia" includes, but is not limited to:
 - A. Kits, products or materials 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;
 - B. Kits, products or materials used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
 - 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 that is 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. Dilutents 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 that are 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 injecting controlled substances in 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:
 - 1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, 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 marijuana cigarette;
 - 6. Miniature cocaine spoons and cocaine vials;
 - 7. Chamber pipes;
 - 8. Carburetor pipes;
 - 9. Electric pipes;
 - 10. Air-driven pipes;
 - 11. Chillums;
 - 12. Bongs; and
 - 13. 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 local, State or Federal law relating to any controlled substance;
- C. The proximity of the object, in time and space, to a direct violation of local or 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, 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.

(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.

(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 to the Village in accordance with the following procedure:

- (1) Property subject to forfeiture under this section may be seized upon process issued by a court having jurisdiction over the property. Seizure without process may be had in any of the following cases:
 - A. The seizure is incident to an arrest or a search warrant or an inspection under an administrative inspection warrant.
 - B. The property subject to seizure has been the subject of a prior judgment in favor of the Village in an injunction or forfeiture proceeding based upon this section.
 - C. There is probable cause to believe that the property is directly or indirectly dangerous to health or safety.
 - D. There is probable cause to believe that the property was used or intended to be used in violation of this section.
- (2) In case of a seizure without process issued by a court with jurisdiction, forfeiture proceedings shall be instituted promptly. If seizure is made without process and the total value of the property seized does not exceed one hundred thousand dollars (\$100,000), the following procedure shall be used:
 - A. The Village shall cause notice of the seizure of property and the intention to forfeit and dispose of the property according to this section to be given to the owner of the property by delivering the owner notice or by sending the notice to the owner by certified mail. If the name and address of the owner are not reasonably ascertainable or if delivery of the notice cannot reasonably be accomplished, the notice shall be published in a newspaper of general circulation in the county in which the property was seized for ten successive publishing days.

- B. Any person claiming an interest in property which is the subject of a notice under paragraph (f)(2)A. hereof may, within twenty days after receipt of the notice or within twenty days after the date of first publication of the notice, file a claim with the Village expressing his or her interest in the property. Upon filing of the claim and giving of a bond in the amount of two hundred fifty dollars (\$250.00), with surety approved by the Village, the Village shall transmit the claim and bond to the Village Attorney, who shall promptly institute forfeiture proceedings after the expiration of the twenty-day period. The condition of such bond shall be that if the property is ordered forfeited by the court, the obligor shall pay all costs and expenses of the forfeiture proceedings.
 - C. If no claim is filed or bond given within the twenty-day period as described, the Village shall declare the property forfeited and shall dispose of the property as set forth hereinafter.
- (3) Property taken or detained under this section shall not be subject to an action to recover personal property but is deemed to be in the custody of the Village subject only to this section or an order and judgment of the court having jurisdiction over the forfeiture proceedings. When property is seized under this section, the Police Department may do either of the following:
- A. Place the property under seal; or
 - B. Remove the property to a place designated by the court.
- (4) When property is forfeited under this chapter, the Village may make any of the following dispositions, at its discretion:
- A. Retain it for official lawful use;
 - B. Sell that which is not required to be destroyed by law and which is not harmful to the public, paying from the proceeds thereof expenses of the proceedings of forfeiture and sale, including maintenance of custody, advertising and other costs, with the balance of moneys to be retained by the Village General Fund; or
 - C. Destroy and dispose of, in a safe manner, any property not reasonably capable of resale or otherwise potentially dangerous and harmful to the community at large.

620.05 SCHOOLS AS DRUG-FREE ZONES.

The Village Council, by virtue of the authority vested by law, hereby declares the schools of Caseville, Michigan, to be drug-free school zones.
(Res. 90-79. Passed 8-13-90.)

620.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)