

LOWER PROVIDENCE TOWNSHIP
Montgomery County, Pennsylvania

ORDINANCE NO. 655
(Duly Adopted March 15, 2018)

**AN ORDINANCE OF LOWER PROVIDENCE TOWNSHIP,
MONTGOMERY COUNTY, PENNSYLVANIA, REPEALING AND
REPLACING CHAPTER 77, DRUG PARAPHERNALIA, OF THE CODE
OF THE TOWNSHIP OF LOWER PROVIDENCE, TO PERMIT THE
SUMMARY CHARGING OF POSSESSION WITH THE INTENT TO USE
DRUG PARAPHERNALIA.**

WHEREAS, the Lower Providence Township Police Department has recommended certain changes to Chapter 77, Drug Paraphernalia, of the Code of the Township of Lower Providence to permit the summary charging of possession with the intent to use drug paraphernalia; and

WHEREAS, the Township desires to repeal and replace Chapter 77, Drug Paraphernalia, of the Code of the Township of Lower Providence to permit the summary charging of possession with the intent to use drug paraphernalia.

NOW, THEREFORE, be it is hereby **ORDAINED AND ENACTED** by the Lower Providence Township Board of Supervisors as follows:

ARTICLE I.

Chapter 77, Drug Paraphernalia, of the Code of the Township of Lower Providence is hereby repealed and replaced as follows:

§77-1. Purpose.

It is unlawful for any person, partnership or corporation to sell, possess with intent to sell, deliver or possess with intent to deliver, use or possess with the intent to use drug paraphernalia knowing that it will 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 35 P.S. § 780-101 et seq.

§77-2. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated:

CONTROLLED SUBSTANCE

Any substance as defined in the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-101 et seq. or an immediate precursor thereof.

DRUG PARAPHERNALIA

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, ingesting, inhaling or otherwise introducing into the human body a controlled substance, in violation of 35 P.S. § 780-101 et seq. 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:

- (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 materials, such as a marijuana 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.

IMMEDIATE PRECURSOR

Any substance which the Secretary of Health of the Commonwealth of Pennsylvania has found to be and by regulation designates as being a principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance.

§77-3. Criteria for determination.

In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other relevant factors, the following:

A. Statements by an owner or anyone in control of the object concerning its use.

- B. 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 knows, or should reasonably know, intend to use the object to facilitate violation of 35 P.S. § 780-101 et seq., the innocence of an owner or of anyone in control of the object as drug paraphernalia.
- C. Instructions, oral or written, provided with the object concerning its use.
- D. Descriptive materials accompanying the object which explain or depict its use.
- E. National and local advertising concerning its use.
- F. The manner in which the object is displayed for sale.
- G. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
- H. The existence and scope of legitimate uses for the object in the community.
- I. A police officer's training and experience or other expert testimony concerning its use.

§77-4. Violations and Penalties

- A. Any person, the members of any partnership or the officers of any corporation who or which violates this chapter shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than \$300. In default of such payment such person, the members of any partnership or the officers of such corporation shall be liable to imprisonment in Montgomery County Prison for not more than 30 days. Each violation shall constitute a separate offense. All fines collected for the violation of this chapter shall be paid to the Township of Lower Providence.
- B. In addition to the penalties provided herein, the Board of Supervisors may apply to the Court of Common Pleas of Montgomery County for a temporary or permanent injunction restraining any person from continued violation of Subsection A of this section irrespective of the existence of an adequate remedy at law.

77-5. Exemptions.

Any person registered with the Secretary of Health of the Commonwealth of Pennsylvania pursuant to 35 P.S. § 780-106 shall be exempt from this chapter. In any prosecution of this chapter, it shall not be necessary to negate any of the exemptions or exceptions of this chapter in any complaint, information or trial. The burden of proof of such exemption or exception shall be upon the person claiming it.

ARTICLE II. Repealer

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

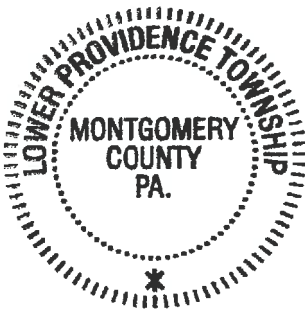
ARTICLE III. Severability

If any section, paragraph, sub-section, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

ARTICLE IV. Effective Date

This Ordinance shall become effective five (5) days after final enactment.

SO RESOLVED, at a duly convened meeting of the Board of Supervisors of Lower Providence Township conducted on this 15th day of March, 2018.



ATTEST:

A handwritten signature in black ink, appearing to read "Don D. Delamater".

Don D. Delamater, Township Manager

**LOWER PROVIDENCE TOWNSHIP
BOARD OF SUPERVISORS**

A handwritten signature in blue ink, appearing to read "Patrick T. Duffy".

Patrick T. Duffy, ChairA handwritten signature in black ink, appearing to read "Jason F. Sorgini".

Jason Sorgini, Vice ChairA handwritten signature in black ink, appearing to read "Colleen Eckman".

Colleen EckmanA handwritten signature in black ink, appearing to read "Peter MacFarland".

Peter MacFarlandA handwritten signature in black ink, appearing to read "Gary Neights".

Gary Neights