

SUMMERFIELD TOWNSHIP
DRUG PARAPHERNALIA ORDINANCE

Ordinance No. 2013-003

An Ordinance to regulate the unlicensed sale, dispensation or possession of drug paraphernalia used, designed, marketed or intended for use with controlled substances; to provide penalties for violation thereof, and to repeal all ordinances or parts of ordinances in conflict therewith.

TOWNSHIP OF SUMMERFIELD, MONROE COUNTY, MICHIGAN, HEREBY ORDAINS:

Section 1. Title. This Ordinance shall be known and cited as the “Summerfield Township Drug Paraphernalia Ordinance.”

Section 2. Purposes. This Ordinance is enacted for the purpose of protecting public health, safety and general welfare of persons and property within Summerfield Township, pursuant to the authority granted to townships in the Township Ordinances Act, Public Act 246 of 1945 (MCL 41.181, *et. seq.*) by prohibiting the sale, dispensation or possession of drug paraphernalia used, designed, marketed or intended for use with a controlled substance or substances without an appropriate license from the State of Michigan within Summerfield Township, and to provide penalties for the violation thereof.

Section 3. Definitions.

“Drug Paraphernalia” means any item, equipment, product or material of any kind which is used, designed, marketed or intended 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, any definition set forth in Part 74 of the Public Health Code Act, Public Act 368 of 1978, as amended, (MCL 333.7401, *et. seq.*).

“Used, designed, marketed or intended for use with a controlled substance” means that the item has been used or was primarily designed or adapted, because of its objective physical features, for use with a controlled substance; for example, a pipe characterized by a bowl which is so small that the primary use for which it is reasonable adapted or designed is the smoking of marijuana or hashish, rather than for the lawful smoking of tobacco; or a spoon so small that the primary use for which it is reasonably adapted or designed is to hold or administer cocaine, or another controlled substance, and which is so small as to be unsuited for the typical, lawful uses of a spoon.

“Controlled Substance” is defined as is set forth in Part 71 of the Public Health Code Act, Public Act 368 of 1978, as amended, (MCL 333.7101, *et. seq.*).

Section 4. Violation.

A. *Possession of Drug Paraphernalia.* No person may 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 this Ordinance.

B. *Manufacture, Sale or Delivery of Drug Paraphernalia.* No person may sell, deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grown, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Ordinance.

C. *Exceptions.* The prohibitions and restrictions set forth in subsections A and B hereof regarding possessing, selling, offering for sale, displaying, furnishing, supplying, processing, or giving away any drug paraphernalia shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, licensed medical doctors, or osteopathic physicians, clinical laboratories, or embalmers, in the normal course of their respective businesses or professions, nor to persons suffering from diabetes, asthma or any other medical conditions requiring self injections, or any other person who is lawfully licensed by the State of Michigan to engage in the activities herein provided.

Section 5. Penalty. Any violation of this Ordinance shall be punishable by a fine not to exceed Five Hundred (\$500.00) Dollars, and/or by imprisonment in the County jail for not to exceed ninety (90) days, or by both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate offense.

In addition, as an alternate remedy, the Township shall have the authority to proceed in any Court of competent jurisdiction to obtain an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance.

Election of one of the foregoing remedies shall not preclude the application of the other remedy.

Section 6. Enforcement. This Ordinance may be enforced by the Michigan State Police, Monroe County Sheriff Department, or other authorized State or Federal law enforcement agency.

Section 7. Severability. If any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance; and the application of those provisions to any persons or circumstances shall not be affected thereby.

Section 8. Repeal. All ordinances and amendments enacted and/or adopted by the Township Board inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

Section 9. Effective Date. This Ordinance has been adopted by the Summerfield Township Board this 21st day of October, 2013, and shall become effective thirty (30) days after adoption and publication as provided by law.