

STATE OF MICHIGAN
COUNTY OF WAYNE
CHARTER TOWNSHIP OF PLYMOUTH

PROHIBITION OF MARIHUANA ESTABLISHMENTS ORDINANCE

ORDINANCE NO. 1016

AMENDMENT #22

AN ORDINANCE TO SUPPLEMENT THE TOWNSHIP CRIMINAL CODE; TO PROVIDE FOR ADOPTION BY REFERENCE OF CERTAIN PROVISIONS OF THE STATE PENAL CODE; TO PROVIDE THAT ANY STATE LAW MISDEMEANOR VIOLATION IS A VIOLATION OF THE TOWNSHIP CRIMINAL CODE; TO PROVIDE THAT POSSESSION OF CONTROLLED SUBSTANCE PARAPHERNALIA AND CHEMICAL AGENTS ARE UNLAWFUL; TO PROVIDE THAT MISREPRESENTING ONE'S AGE TO OBTAIN ALCOHOLIC LIQUOR IS UNLAWFUL; TO PROVIDE THAT POSSESSION OR USE OF TOBACCO, VAPOR PRODUCTS OR ALTERNATIVE NICOTINE PRODUCTS IS UNLAWFUL; TO PROVIDE THAT OPEN HOUSE PARTIES ARE UNLAWFUL; TO PROVIDE THAT PROSTITUTION IS UNLAWFUL; TO PROVIDE THAT ANIMAL CRUELTY IS UNLAWFUL; TO PROVIDE THAT FRAUDULENT SCHEMES ARE UNLAWFUL; TO PROVIDE THAT BREACH OF THE PEACE IS UNLAWFUL; TO PROVIDE THAT PUBLIC INTOXICATION IS UNLAWFUL; TO PROVIDE PENALTIES FOR VIOLATION OF THIS ORDINANCE; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR SAVINGS CLAUSE; TO PROVIDE FOR PUBLICATION; AND TO PROVIDE AN EFFECTIVE DATE.

THE CHARTER TOWNSHIP OF PLYMOUTH ORDAINS:

Ordinance No. 1016, the Criminal Code Supplementation Ordinance, is hereby adopted to read as follows:

VII-2.00 Criminal Code, adoption by reference.

(A) The Charter Township of Plymouth, pursuant to and as allowed by Section 23 of Public Act 359 of 1947, MCL § 42.23, adopts by reference the following provisions of the State Penal Code, Public Act 328 of Public Acts of 1931, as amended, the Fraudulent Access to Computers, Computer Systems, and Computer Networks Act, Public Act 53 of 1979, as amended, and the Careless, Reckless, or Negligent Use of Firearms Act, Act 45 of 1952, as amended. The following statutes are in addition to, and not a replacement of, the state law provisions already adopted by the Charter Township of Plymouth and codified in this Section.

MCL §§ 333.7404, 750.15, 750.27, 750.28, 750.33(a), 750.38, 750.39, 750.40, 750.42b(2), 750.49, 750.50, 750.50a, 750.51, 750.52, 750.57, 750.66, 750.77, 750.81, 750.95a, 750.103, 750.108, 750.109a, 750.115, 750.120a, 750.120b, 750.131, 750.135a, 750.136b(1) and (8-10), 750.137, 750.141 through 750.145, 750.145a-750.145f, 750.157s; 750.157w, 750.168(1), 750.169, 750.170, 750.174(1-2), 750.174a(2), 750.181(1-2), 750.184, 750.197a, 750.199, 750.204b, 750.204c, 750.214, 750.215, 750.216, 750.216a, 750.216b, 750.217a, 750.217g, 750.217h, 750.218(2), 750.219a(2)(a), 750.221, 750.223(1), 750.227d, 750.229, 750.231c, 750.232, 750.232a(1), 750.233, 750.234, 750.234d, 750.234e, 750.234f, 750.235, 750.235a, 750.237(1-2), 750.240, 750.241, 750.282, 750.291, 750.292, 750.335, 750.337, 750.352, 750.355, 750.356, 750.356d, 750.364, 750.368(1-3), 750.369, 750.370, 750.377a(1)(d), 750.380(5), 750.381, 750.382, 750.383, 750.384, 750.385, 750.387, 750.388, 750.390, 750.391, 750.394 through 750.396, 750.398, 750.400, 750.411a, 750.411d, 750.411g, 750.411h, 750.414a, 750.415, 750.416, 750.419, 750.421b, 750.421c, 750.448, 750.449a through 750.451, 750.462, 750.463, 750.464a, 750.465, 750.467, 750.468, 750.469, 750.471, 750.473, 750.477a, 750.479c, 750.481, 750.483, 750.485, 750.487, 750.489, 750.490a, 750.492a(1)(d), 750.493, 750.493a, 750.493b, 750.493c, 750.493d, 750.493e, 750.495, 750.495a(1), 750.496, 750.497, 750.498, 750.498b(1), 750.501, 750.502c, 750.507, 750.507b, 750.510, 750.518, 750.533, 750.534, 750.535(1) and (5), 750.536a, 750.539b, 750.540a, 750.540b, 750.540e, 750.540f(1), 750.540g(1)(a), 750.541, 750.542, 750.543, 750.546, 750.547, 750.548, 750.549, 750.550, 750.551, 750.552, 750.552a, 750.556, 750.562, 750.563, 750.564, 750.565, 750.566, 752.791-750.794, 752.797(1)(a), 752.861, 752.862, and 752.863c.

(B) State Law Misdemeanor Violations. Every act prohibited by state law as a misdemeanor is hereby prohibited, and whoever violates the provisions of this section within the Township shall, upon conviction thereof, be punished by the same penalty provided by state law, except that the penalty shall, in no case, exceed a fine of \$500 or imprisonment for 93 days, or both.

VII-2.01-2.07 (Unchanged)

VII-2.08 Possession and/or Use of Controlled Substances and/or Chemical Agents

(A) It is unlawful for any person to use or knowingly or intentionally to possess lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocylin, or such other substances as defined in Schedules 1-5 of Public Act 368 of 1978, as amended (MCL 333.7336), of the State of Michigan, unless the substance was obtained directly from or pursuant to a valid prescription or order of practitioner ("practitioner" being defined as in Subdivisions (a) and (b) of MCL 333.7109, as amended) while acting in the course of his professional practice or except as otherwise authorized by this section.

(B) First offenders. When any person who has not previously been convicted as set forth herein or under any statute of the United States or state law or municipal ordinance relating to possession or use of the substances as defined herein pleads guilty to or is found guilty of violating this section, the court, without entering a judgment of guilt and with the consent of the accused person, may defer further proceedings and place the accused person on probation upon certain terms and conditions, including therein such requirement that the accused person attend courses of instruction or rehabilitation on the medical, psychological and social effects of the misuse of drugs and/or the substances defined herein. Upon violation of a term of condition, the court may enter an adjudication of guilt and proceed as the court determines. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceeding against him. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for the purposes of disqualifications or disabilities imposed by law upon the conviction of a crime. There may be only one discharge and dismissal under this subsection with respect to any person. The Department of Public Safety shall retain a nonpublic record of an arrest and discharge or dismissal under this subsection. This record shall be furnished to any court or police agency upon request for the purpose of showing that a defendant in a criminal action involving possession or use of the substances as defined above has already once availed himself of the provisions of this subsection.

(C) Possession of Drug Paraphernalia. A person shall not possess drug paraphernalia as defined by section 7451 of Public Act No. 368 of 1978 (MCL 333.7451) knowing that the drug paraphernalia 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 as defined by part 71 of Public Act No. 368 of 1978 (MCL 333.7101 et seq.). This subsection shall not apply to the lawful use of marihuana, but shall apply to possession of marihuana paraphernalia by persons less than 21 years of age.

(D) Hypodermic syringes, needles, etc. It shall be unlawful for any person to have, possess, sell, offer to sell, dispense or give away any hypodermic syringe, needle or any other instrument or implement for the illegal use of narcotic or dangerous or hallucinatory drugs as defined by state law, by subcutaneous injection or intracutaneous injection or any other manner or method of introduction and which is possessed, sold, offered, dispensed or given away for that purpose.

(E) Loitering about places where controlled substances, etc., are illegally stored, kept or used. It shall be unlawful for any person, knowing that the controlled substances, devices and/or other instruments enumerated and prescribed within this section are being illegally sold, dispensed, furnished, given away, stored kept or used, to loiter about, frequent or be present in such building, apartment, automobile, boat or place of any description wherein such illegal activity is being carried on, conducted or operated or wherein such illegal substances, devices and/or instruments prescribed herein are being illegally kept or stored.

(F) Use of chemical agents.

(1) As used in this section, the term "chemical agent" means any substance containing a toxic chemical or organic solvent or both, having the property of releasing toxic vapors. The term includes, but is not limited to, glue, acetone, toluene, carbon tetrachloride, hydrocarbons and hydrocarbon derivatives.

(2) No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses of nervous system, intentionally smell or inhale the fumes of any chemical agent, drug or other substance or matter or intentionally drink, eat or otherwise introduce any model glue, drug or other substance or matter into his respiratory or circulatory system. This section shall not prohibit the inhalation of any anesthesia for medical or dental purposes.

(3) Any person who assists, aids, abets, or encourages any person to violate the provisions of this section shall be guilty of a misdemeanor.

(G) Controlled substances to be kept in original package. It shall be unlawful for any person to knowingly possess any controlled substance as defined in MCL § 333.7212, MCL § 333.7214, MCL § 333.7216, MCL § 333.7218 and MCL § 333.7220, and as amended, commonly referred to Schedule 1 through Schedule 5 controlled substances, unless it is kept in the original package or container in which they were received from a person who may lawfully prescribe or dispense controlled substances; provided, that this subsection shall not be construed to apply to any duly licensed medical doctor, osteopathic physician, dentist, veterinarian, or chiroprapist, or to any authorized person acting directly under their supervision or control.

(H) Possession or use of marihuana by a person under 21 years of age. It shall be unlawful for any person under 21 years of age to knowingly or intentionally possess or use marihuana.

VII-2.09 Misrepresenting age to obtain alcoholic liquor.

(A) No person under the age of 21 years shall by documentary evidence falsely represent himself to be 21 years of age or over for the purpose of purchasing or attempting to purchase any alcoholic liquor nor shall any person under the age of 21 years give such false information regarding his age to any person selling alcoholic liquor for the purpose of securing a sale thereof to himself or any other person under the age of 21 years.

(B) No person shall furnish false documentary evidence to any person under 21 years of age to be used by any such person for the purpose of obtaining alcoholic beverages.

(C) Any person who shall violate any of the provisions of this section shall be subject to a maximum fine of \$500 and/or a maximum imprisonment of 93 days.

VII-2.10 Possession or use of tobacco, vapor products or alternative nicotine products.

(A) Definitions. As used in this section, the following definitions shall apply:

"Chewing tobacco" means loose tobacco or a flat, compressed cake of tobacco which is inserted into the mouth to be chewed or sucked.

"Vapor product" or "alternative nicotine product" means a noncombustible product containing nicotine or not that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means regardless of shape or size, that can be used to produce vapor from nicotine or not in a solution or other form. "Vapor product" includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form than is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration ("FDA") under subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 USC 351 to 360FFF-7.

"Tobacco snuff" means shredded, powdered or pulverized tobacco which may be inhaled through the nostrils, chewed or placed against the gums.

(B) Possession or use in public place prohibited. A person under 18 years of age shall not possess or smoke cigarettes or cigars, or possess or chew, suck, or inhale chewing tobacco or tobacco snuff, or possess or use tobacco in any other form, or possess or smoke vapor product or alternative nicotine products on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of business or amusement.

(C) Penalty. A person who violates subsection (b) of this section is guilty of a misdemeanor, punishable by a fine of not more than \$50.00 for each offense. Pursuant to a probation order, the court may require a person who violates subsection (b) of this section to participate in a health promotion and risk reduction assessment program, if available. A probationer who is ordered to participate in a health promotion and risk reduction assessment program under this section is responsible for the cost of participating in the program. In addition, a person who violates this section is subject to the following:

(1) For the first violation the court may order the person to do one of the following:

a. Perform not more than 16 hours of community service in a hospice, nursing home or long term care facility.

b. Participate in a health promotion and risk reduction program, as described in this subsection.

(2) For a second violation, in addition to participation in a health promotion risk reduction program, the court may order the person to perform not more than 32 hours of community service in a hospice, nursing home, or long term care facility.

(3) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction program, the court may order the person to perform not more than 48 hours of community service in a hospice, nursing home or long term care facility.

VII-2.09. Open house parties.

(A) Definitions:

"Alcoholic beverage" means an alcoholic liquor as defined in section 105 the Michigan Liquor Control Code of 1998 (MCL 436.1105 et seq.).

"Allow" means to give permission for, or approval of, possession or consumption of an alcoholic beverage or a controlled substance, by any of the following means:

- (1) In writing.
- (2) By one or more oral statements.
- (3) By any form of conduct, including a failure to take corrective action, that would cause a reasonable person to believe that permission or approval has been given.

"Control over any premises, residence, or other real property" means the authority to regulate, direct, restrain, superintend, control, or govern the conduct of other individuals on or within that premises, residence, or other real property, and includes, but is not limited to, a possessory right.

"Controlled substance" means that term as defined in section 7104 of Public Act No. 368 of 1978 (MCL 333.7104).

"Corrective action" means any of the following:

- (1) Making a prompt demand that the minor or other individual depart from the premises, residence, or other real property, or refrain from the unlawful possession or consumption of the alcoholic beverage or controlled substance on or within that premises, residence, or other real property, and taking additional action described in subsection (2) or (3) of this definition if the minor or other individual does not comply with the request.
 - (2) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to a law enforcement agency having jurisdiction over the violation.
 - (3) Making a prompt report of the unlawful possession or consumption of alcoholic liquor or a controlled substance to another person having a greater degree of authority or control over the conduct of persons on or within the premises, residence, or other real property.
- Minor means an individual less than 21 years of age.

"Premises" means a permanent or temporary place of assembly, other than a residence, including, but not limited to, any of the following:

- (1) A meeting hall, meeting room, or conference room.
- (2) A public or private park.

"Residence" means a permanent or temporary place of dwelling, including, but not limited to, any of the following:

- (1) A house, apartment, condominium, or mobile home.
- (2) A cottage, cabin, trailer, or tent.
- (3) A motel unit, hotel unit, or bed and breakfast unit.

Social gathering means an assembly of two or more individuals for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family.

(B) Except as otherwise provided in subsection (c) of this section, an owner, tenant, or other person having control over any premises, residence, or other real property shall not do either of the following:

- (1) Knowingly allow a minor to consume or possess an alcoholic beverage at a social gathering on or within that premises, residence, or other real property.
- (2) Knowingly allow any individual to consume or possess a controlled substance at a social gathering on or within that premises, residence, or other real property.

(C) This section does not apply to the use, consumption, or possession of a controlled substance by an individual pursuant to a lawful prescription, or to the use, consumption, or possession of an alcoholic beverage by a minor for religious purposes.

(D) Evidence of all of the following gives rise to a rebuttable presumption that the defendant allowed the consumption or possession of an alcoholic beverage or a controlled substance on or within the premises, residence, or other real property, in violation of this section:

- (1) The defendant had control over the premises, residence, or other real property.
- (2) The defendant knew that a minor was consuming or in possession of an alcoholic beverage or knew that an individual was consuming or in possession of a controlled substance at a social gathering on or within that premises, residence, or other real property.
- (3) The defendant failed to take corrective action.

(E) This section does not authorize selling or furnishing an alcoholic beverage to a minor.

(F) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

VII-2.10 Prostitution

(A) No person shall commit or offer or agree to commit a lewd act or an act of prostitution, or moral perversion.

(B) No person shall secure or offer another for the purpose of committing a lewd act, or an act of prostitution, or moral perversion.

(C) No person shall be in or near any place frequented by the public or any public place for the purpose of inducing, enticing or procuring another to commit a lewd act, or an act of prostitution or moral perversion.

(D) No person shall knowingly transport any person to any place for the purpose of committing a lewd act, or an act of prostitution or moral perversion.

(E) No person shall knowingly receive, or offer to or agree to receive, any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or knowingly permit any person to remain in any place or building for any such purpose.

(F) No person shall direct or offer to direct any person to any place or building for the purpose of committing any lewd act, or act of prostitution or moral perversion.

VII-2.11 Animal Cruelty

It shall be unlawful for any owner, possessor or person having the charge or custody of any animal within the township to abandon any diseased, maimed, hopelessly sick, infirm or disabled animal in any place within the township, or willfully or negligently to permit and allow any aged, diseased, maimed, hopelessly sick, infirm or disabled animal in any place within the township to suffer unnecessary torture or pain, or to treat any animal cruelly.

VII-2.12 Fraudulent schemes.

It shall be unlawful for any person within the township to engage in any fraudulent scheme, device or trick to obtain money or other valuable thing, or to aid or abet or in any manner to be concerned therein.

VII-2.13 Breach of peace.

Any person who shall make or assist in making any noise, disturbance, trouble or improper diversion, rout or riot, by which the peace and good order of the township are unreasonably disturbed, shall be guilty of a misdemeanor.

VII-2.14 Public intoxication.

Any person who is publicly intoxicated in a public place, and who is either endangering the safety of another person or of property or is acting in a manner that unreasonably creates a public disturbance, shall be guilty of a misdemeanor.

SECTION III. PENALTY.

The penalty for violation of this Code shall be a maximum of 90 days in jail and/or a maximum fine of \$500 or both, unless the penalty under state law for a violation of the pertinent section is a maximum 93 days in jail, in which case the penalty for violation under this ordinance shall be a maximum of 93 days in jail and/or a maximum fine of \$500 or both.

SECTION IV. REPEAL.

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance, except as herein provided, are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION V. SEVERABILITY.

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

SECTION VI. SAVINGS CLAUSE.

The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this Ordinance.

SECTION VII. PUBLICATION.

The Clerk for the Charter Township of Plymouth shall cause this Ordinance to be published in the manner required by law.

SECTION VIII. EFFECTIVE DATE.

This Ordinance shall take full force and effect upon publication.

CERTIFICATION

The foregoing Ordinance was duly adopted by the Charter Township of Plymouth Board Trustees at its regular meeting called and held on the 22nd day of January, 2019, and was ordered to be given publication in the manner required by law.

Jerry Vorva, Clerk

Introduced: January 8, 2019
Published: January 24, 2019
Adopted: January 22, 2019
Effective upon Publication: January 24, 2019