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Lakewood City Council
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CINDY STREBIG, WARD 3
CINDY MARX, WARD 4

Issued 02/13/24

PUBLIC NOTICE – PUBLIC SAFETY COMMITTEE

Public Safety Committee will meet Tuesday February 20, 2024 at 6:00 p.m. in the Auditorium of Lakewood City Hall at 12650 Detroit Avenue. The meeting is open to the public.

Individuals with disabilities who require accommodations for participation in meetings must request accommodations at least 3 business days ahead of the scheduled meeting. Contact Michelle Nochta at (216) 529-5906 michelle.nochta@lakewoodoh.net.

The meeting will be livestreamed on the City's website at the following link:

www.lakewoodoh.gov/councilvideos

PUBLIC COMMENT PROTOCOL (Updated 6/21)

The public is invited to comment on agenda items in person or by submitting a written comment in advance of the meeting using the eComment platform available [HERE](#). New users must create an eComment account.

The agenda is as follows:

Approval of the minutes of the February 12, 2024 meeting of the Public Safety Committee.

ORDINANCE 40-2023 - AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council to amend Sections 513.01 Definitions, 513.02 Gift of marijuana, and 513.03 Drug abuse; and controlled substance possession or use of the Codified Ordinances of the City of Lakewood and to repeal Section 513.045 Use or possession of marijuana paraphernalia, to make these sections consistent with Chapter 3780 Adult Use Cannabis Control of the Ohio Revised Code. (*1st read & referred to Public Safety 12/18/23; 2nd reading 1/2/24*)

Kyle Baker, Chair
Jason Shachner, Cindy Streb; Members
PUBLIC SAFETY COMMITTEE

1st read & referred to Public
Safety 12/18/23
2nd reading 1/2/24

ORDINANCE NO. 40-2023

BY: SHACHNER, KEPPLER, MARX, RADER,
BAKER

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council to amend Sections 513.01 Definitions, 513.02 Gift of marihuana, and 513.03 Drug abuse; and controlled substance possession or use of the Codified Ordinances of the City of Lakewood and to repeal Section 513.045 Use or possession of marihuana paraphernalia, to make these sections consistent with Chapter 3780 Adult Use Cannabis Control of the Ohio Revised Code.

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments in enforcing ordinances related to the possession and use of marihuana should be adopted as soon as possible.

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 513.01 Definitions of the Codified Ordinances of the City of Lakewood, currently reading as follows:

513.01 DEFINITIONS

As used in this chapter, certain terms are defined as follows:

- (a) “Administer” means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.
- (b) “Controlled substance” means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV or V.
- (c) “Dispense” means sell, leave with, give away, dispose of or deliver.
- (d) “Distribute” means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.
- (e) “Hypodermic” means a hypodermic syringe or needle, or other instrument or device for the subcutaneous injection of medication.
- (f) “Manufacturer” means a person who manufactures a controlled substance as “manufacture” is defined in Ohio R.C. 3715.01.
- (g) “Marihuana” means all parts of any plant of the genus cannabis whether 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, its seeds or resin. It does not

include the mature stalks of the plant, fiber produced from the stalks, oils 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.

(h) (Reserved)

(i) "Official written order" means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by Federal law.

(j) "Pharmacist" means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.

(k) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.

(l) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.

(m) "Licensed health professional authorized to prescribe drugs", "prescribe" and "prescription" have the same meanings as in Ohio R.C. 4729.01.

(n) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee.

(o) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" and "Schedule V" mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44.

(p) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that he himself has not manufactured, produced or prepared and includes "wholesale distributor of dangerous drugs" as the term is defined in Ohio R.C. 4729.02.

(ORC 3719.01)

(q) "Drug of abuse" means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in subsection (x) hereof and any dangerous drug as defined in subsection (r) hereof.

(ORC 3719.011)

(r) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

A. Under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

B. Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V narcotic drug and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

(s) “Bulk amount” of a controlled substance means any of the following:

(1) An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance which is, or which contains any amount of, a Schedule I opiate or opium derivative, or cocaine;

(2) An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance which is, or contains any amount of, raw or gum opium;

(3) An amount equal to or exceeding 200 grams of marihuana, or an amount equal to or exceeding ten grams of the resin contained in marihuana, or of any extraction or preparation of the resin contained in marihuana, or equal to or exceeding two grams of the resin contained in marihuana in a liquid concentrate, liquid extract or liquid distillate form;

(4) An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance which is, or contains any amount of, a Schedule I hallucinogen other than tetrahydrocannabinol, lysergic acid diethylamide, lysergic acid amide, or marihuana or a Schedule I depressant;

(5) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance which is, or contains any amount of, a Schedule II opiate or opium derivative;

(6) An amount equal to or exceeding one gram or ten unit doses of a compound, mixture, preparation or substance which is, or contains any amount of, lysergic acid diethylamide, lysergic acid amide tetrahydrocannabinol;

(7) An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance which is, or contains any amount of, phencyclidine;

(8) An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance which is, or contains any amount of, a Schedule II stimulant or depressant substance, or a Schedule III or IV substance;

(9) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance which is, or contains any amount of, a Schedule V substance.

(t) “Unit dose” means an amount or unit of a compound, mixture or preparation containing a controlled substance, such amount or unit being separately identifiable and in such form as to

indicate that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

(u) "Cultivate" includes planting, watering, fertilizing or tilling.

(v) "Drug abuse offense" means any of the following:

(1) A violation of Ohio R.C. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;

(2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (v)(1) hereof;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;

(4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (v)(1), (2) or (3) hereof.

(w) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this State except a violation of Ohio R.C. 2925.11.

(x) "Harmful intoxicant" does not include beer or intoxicating liquor, but means any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes, but is not limited to, any of the following:

(1) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, and any other preparation containing a volatile organic solvent;

(2) Any aerosol propellant;

(3) Any fluorocarbon refrigerant;

(4) Any anesthetic gas.

(y) "Manufacture" means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.

(z) "Possess" or "possession" means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

(aa) “Sample drug” means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a practitioner, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

(bb) “Standard pharmaceutical reference manual” means the current edition, with cumulative changes if any, of any of the following reference works:

(1) “The National Formulary”;

(2) “The United States Pharmacopeia”, prepared by authority of the United States Pharmacopeial Convention, Inc.;

(3) Other standard references that are approved by the State Board of Pharmacy.

(cc) “Juvenile” means a person under eighteen years of age.

(ORC 2925.01)

(dd) (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, 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 in violation of this chapter. It includes, but is not limited to:

A. Kits used, intended for use or designed for use in the 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; and

L. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, 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 marihuana 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; 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 City, State or Federal law relating to any controlled substance;
- C. The proximity of the object, in time and space, to a direct violation of this chapter;
- 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 knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner or of anyone in control

of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as “drug paraphernalia”;

G. Instructions, 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. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

L. The existence and scope of legitimate uses for the object in the community; and

M. Expert testimony concerning its use.

(ee) “School premises” means either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school, is being conducted on the premises at the time a criminal offense is committed; or

(2) Any other parcel of real property that is owned or leased by a board of education of a school or the governing body of a school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

(ff) “School building” means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

(gg) “Counterfeit controlled substance” means:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.

(hh) An offense is “committed in the vicinity of a school” if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

is hereby repealed.

Section 2. That new Section 513.01 Definitions of the Lakewood Codified Ordinances, is hereby enacted to read as follows:

As used in this chapter, certain terms are defined as follows:

(a) “Administer” means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.

(b) “Controlled substance” means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV or V.

(c) “Dispense” means sell, leave with, give away, dispose of or deliver.

(d) “Distribute” means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.

(e) “Hypodermic” means a hypodermic syringe or needle, or other instrument or device for the subcutaneous injection of medication.

(f) “Manufacturer” means a person who manufactures a controlled substance as “manufacture” is defined in Ohio R.C. 3715.01.

(g) ~~“Marihuana” means all parts of any plant of the genus cannabis whether 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, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oils 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. “Adult use cannabis ” or “cannabis ” or “marijuana” or “marihuana” means marihuana as defined in section 3719.01 of the Revised Code.~~

(h) ~~(Reserved)~~ “Adult use extract” or “extract” means a substance obtained by separating or concentrating cannabinoids and other compounds from any part of the adult use cannabis plant by physical or chemical means, intended to be refined for use as an ingredient in an adult use cannabis product or as a standalone adult use cannabis product.

(i) “Official written order” means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by Federal law.

(j) “Pharmacist” means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.

(k) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.

(l) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.

(m) "Licensed health professional authorized to prescribe drugs", "prescribe" and "prescription" have the same meanings as in Ohio R.C. 4729.01.

(n) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee.

(o) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" and "Schedule V" mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44.

(p) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that he himself has not manufactured, produced or prepared and includes "wholesale distributor of dangerous drugs" as the term is defined in Ohio R.C. 4729.02.

(ORC 3719.01)

(q) "Drug of abuse" means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in subsection (x) hereof and any dangerous drug as defined in subsection (r) hereof.

(ORC 3719.011)

(r) "Dangerous drug" means any of the following:

(1) Any drug to which either of the following applies:

A. Under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;

B. Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.

(2) Any drug that contains a Schedule V narcotic drug and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;

(3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body.

(s) "Bulk amount" of a controlled substance means any of the following:

(1) An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance which is, or which contains any amount of, a Schedule I opiate or opium derivative, or cocaine;

(2) An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance which is, or contains any amount of, raw or gum opium;

(3) An amount equal to or exceeding 200 grams of marihuana, or an amount equal to or exceeding ten grams of the resin contained in marihuana, or of any extraction or preparation of the resin contained in marihuana, or equal to or exceeding two grams of the resin contained in marihuana in a liquid concentrate, liquid extract or liquid distillate form;

(4) An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance which is, or contains any amount of, a Schedule I hallucinogen other than tetrahydracannabinol, lysergic acid diethylamide, lysergic acid amide, or marihuana or a Schedule I depressant;

(5) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance which is, or contains any amount of, a Schedule II opiate or opium derivative;

(6) An amount equal to or exceeding one gram or ten unit doses of a compound, mixture, preparation or substance which is, or contains any amount of, lysergic acid diethylamide, lysergic acid amide tetrahydracannabinol;

(7) An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance which is, or contains any amount of, phencyclidine;

(8) An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance which is, or contains any amount of, a Schedule II stimulant or depressant substance, or a Schedule III or IV substance;

(9) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance which is, or contains any amount of, a Schedule V substance.

(t) "Unit dose" means an amount or unit of a compound, mixture or preparation containing a controlled substance, such amount or unit being separately identifiable and in such form as to indicate that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

(u) "Cultivate" includes planting, watering, fertilizing or tilling.

(v) "Drug abuse offense" means any of the following:

(1) A violation of Ohio R.C. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;

(2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (v)(1) hereof;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing,

shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;

(4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (v)(1), (2) or (3) hereof.

(w) “Felony drug abuse offense” means any drug abuse offense that would constitute a felony under the laws of this State except a violation of Ohio R.C. 2925.11.

(x) “Harmful intoxicant” does not include beer or intoxicating liquor, but means any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes, but is not limited to, any of the following:

(1) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, and any other preparation containing a volatile organic solvent;

(2) Any aerosol propellant;

(3) Any fluorocarbon refrigerant;

(4) Any anesthetic gas.

(y) “Manufacture” means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.

(z) “Possess” or “possession” means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

(aa) “Sample drug” means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a practitioner, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

(bb) “Standard pharmaceutical reference manual” means the current edition, with cumulative changes if any, of any of the following reference works:

(1) “The National Formulary”;

(2) “The United States Pharmacopeia”, prepared by authority of the United States Pharmacopeial Convention, Inc.;

(3) Other standard references that are approved by the State Board of Pharmacy.

(cc) “Juvenile” means a person under eighteen years of age.

(ORC 2925.01)

(dd) (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, 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 in violation of this chapter. It includes, but is not limited to:

A. Kits used, intended for use or designed for use in the 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, marihuana;

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; and

L. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, 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 marihuana 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; 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 City, State or Federal law relating to any controlled substance;

C. The proximity of the object, in time and space, to a direct violation of this chapter;

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 knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended for use, or designed for use as “drug paraphernalia”;

G. Instructions, 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. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

L. The existence and scope of legitimate uses for the object in the community; and

M. Expert testimony concerning its use.

(ee) “School premises” means either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school, is being conducted on the premises at the time a criminal offense is committed; or

(2) Any other parcel of real property that is owned or leased by a board of education of a school or the governing body of a school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

(ff) “School building” means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

(gg) “Counterfeit controlled substance” means:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.

(hh) An offense is “committed in the vicinity of a school” if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

Section 3. Section 513.02 Gift of Marihuana of the Codified Ordinances of the City of Lakewood, currently reading as follows:

513.02 GIFT OF MARIHUANA

(a) No person shall knowingly make a gift of, or possess for the purpose of making a gift of, or receive as a gift, twenty grams or less of marihuana.

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the third degree for any subsequent offense, provided the offense does not

involve a violation of Ohio R.C. 2925.03(A)(1), (5), (7) or (10) that was committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, or that was committed within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, if the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense. If the offense involves a violation of Ohio R.C. 2925.03(A)(1), (5), (7) or (10) that was committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, or that was committed within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, if the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense, whoever violates this section is guilty of a misdemeanor of the third degree.

In addition to any other penalty imposed for a violation of this section, the Court may proceed as provided in Ohio R.C. 2925.03(M) and the State Registrar of Motor Vehicles shall proceed as provided in Ohio R.C. 4507.169.

is hereby repealed.

Section 4. That new Section 513.02 Gift of Marihuana is hereby enacted to read as follows:

(a) No person shall knowingly make a gift of adult use cannabis that exceeds: ~~or possess for the purpose of making a gift of, or receive as a gift, twenty grams or less of marihuana~~

(1) Two and one-half ounces of adult use cannabis in any form except adult use extract;

(2) Fifteen grams of adult use cannabis in the form of adult use extract; or

(3) Any amount in any form to a person that is under the age of twenty-one.

(b) Whoever violates this section is guilty of a minor misdemeanor. ~~for a first offense and a misdemeanor of the third degree for any subsequent offense, provided the offense does not involve a violation of Ohio R.C. 2925.03(A)(1), (5), (7) or (10) that was committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, or that was committed within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, if the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense. If the offense involves a violation of Ohio R.C. 2925.03(A)(1), (5), (7) or (10) that was committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, or that was committed within 100 feet of any juvenile or within the view of any juvenile, whether or not the offender knows the age of the juvenile, if the offender knows the juvenile is within 100 feet or within view of the commission of the offense, or the juvenile views the commission of the offense, whoever violates this section is guilty of a misdemeanor of the third degree.~~

In addition to any other penalty imposed for a violation of this section, the Court may proceed as provided in Ohio R.C. 2925.03(M) and the State Registrar of Motor Vehicles shall proceed as provided in Ohio R.C. 4507.169.

Section 5. Section 513.03 Drug Abuse; Controlled Substance Possession or Use of the Codified Ordinances of the City of Lakewood, currently reading as follows:

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE

(a) No person shall knowingly obtain, possess or use a controlled substance.

(b) Subsection (a) hereof does not apply to the following:

(1) Manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4731 and 4741;

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;

(3) Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the “Federal Food, Drug and Cosmetic Act”, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act; and

(4) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(Ord. 18-02. Passed 9-3-02.)

(c) Whoever violates this section is guilty of drug abuse and shall be sentenced as follows:

(1) If the drug involved is a compound, mixture, preparation or substance included in Schedule III, IV or V, with the exception of an anabolic steroid, drug abuse is a misdemeanor of the third degree, and if the offender previously has been convicted of a drug abuse offense, drug abuse is a misdemeanor of the second degree.

(2) If the drug involved is marihuana, drug abuse is a misdemeanor of the fourth degree, unless the amount of marihuana involved is less than 100 grams, the amount of marihuana resin or extraction or preparation of such resin is less than five grams, and the amount of such resin in a liquid concentrate, liquid extract or liquid distillate form is less than one gram, in which case drug abuse is a minor misdemeanor.

(3) If the drug involved is an anabolic steroid included in Schedule III, drug abuse is a misdemeanor of the third degree and, in lieu of sentencing an offender to a definite or indefinite term of imprisonment in a detention facility, the court may place the offender on conditional probation pursuant to Ohio R.C. 2925.11(G) or 2951.02(H), unless the offender previously has been convicted of a drug abuse offense, in which case drug abuse is a misdemeanor of the second degree.

(d) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any

application for employment, license or other right or privilege, or made in connection with the person's appearance as a witness.

(e) (1) Notwithstanding the fines otherwise required to be imposed pursuant to Section 501.99, for violations of this section, and notwithstanding Ohio R.C. 2929.22, the court shall impose a mandatory fine of seven hundred fifty dollars (\$750.00) if the violation of this section was a misdemeanor of the second degree, a mandatory fine of five hundred dollars (\$500.00) if the violation of this section was a misdemeanor of the third degree, a mandatory fine of two hundred fifty dollars (\$250.00) if the violation of this section was a misdemeanor of the fourth degree, and a mandatory fine of one hundred dollars (\$100.00) if the violation of this section was a minor misdemeanor.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to paragraph (e)(1) hereof if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to Section 501.99.

(3) Notwithstanding any contrary provision of Ohio R.C. 2925.11 or 3719.21, fifty percent of any mandatory fine imposed pursuant to paragraph (e)(1) hereof shall be paid by the clerk of the court into the Law Enforcement Trust Fund of the Municipality required to be established by Ohio R.C. 2933.43(D)(1)(c) and fifty percent shall be paid into the General Fund of the Municipality. Any additional fine imposed pursuant to paragraph (e)(2) hereof shall be disbursed by the clerk of the court as otherwise provided by law.

(4) If a person is charged with any violation of this section and posts bail pursuant to Ohio R.C. 2937.22 to 2937.46 or Rule 46 of the Ohio Rules of Criminal Procedure, and if the person forfeits the bail, the forfeited bail shall be paid by the clerk of the court in accordance with and subject to the requirements of, and shall be used as specified in, paragraph (e)(3) hereof.

(5) No court shall impose a mandatory fine pursuant to paragraph (e)(1) hereof upon an offender who alleges, in an affidavit filed with the court prior to his or her sentencing, that he or she is indigent and is unable to pay any mandatory fine imposed pursuant to such paragraph, if the court determines the offender is an indigent person and is unable to pay the fine.

(f) In addition to the penalties provided in this section, the court may proceed as provided in Ohio R.C. 2925.11(F) through (H) and the State Registrar of Motor Vehicles shall proceed as provided in Ohio R.C. 4507.169.

is hereby repealed.

Section 5. That new Section 513.03 is hereby enacted to read as follows:

(a) No person shall knowingly obtain, possess or use a controlled substance.

(b) Subsection (a) hereof does not apply to the following:

(1) Manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4731 and 4741;

(2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;

(3) Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the “Federal Food, Drug and Cosmetic Act”, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act; and

(4) Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(Ord. 18-02. Passed 9-3-02.)

(c) Whoever violates this section is guilty of drug abuse and shall be sentenced as follows:

(1) If the drug involved is a compound, mixture, preparation or substance included in Schedule III, IV or V, with the exception of an anabolic steroid, drug abuse is a misdemeanor of the third degree, and if the offender previously has been convicted of a drug abuse offense, drug abuse is a misdemeanor of the second degree.

(2) If the drug involved is marihuana, and the amount of marihuana in any form except adult use extract is greater than two and one-half ounces but is less than two hundred grams or the amount of marihuana in the form of adult use extract is greater than fifteen grams or any amount of marihuana in any form and the person is under the age of twenty-one drug abuse is a minor misdemeanor. of the fourth degree, unless the amount of marihuana involved is less than 100 grams, the amount of marihuana resin or extraction or preparation of such resin is less than five grams, and the amount of such resin in a liquid concentrate, liquid extract or liquid distillate form is less than one gram, in which case drug abuse is a minor misdemeanor. Persons convicted of violating this section that are the age of twenty-one or above shall not be fined and all court costs shall be suspended.

(3) If the drug involved is an anabolic steroid included in Schedule III, drug abuse is a misdemeanor of the third degree and, in lieu of sentencing an offender to a definite or indefinite term of imprisonment in a detention facility, the court may place the offender on conditional probation pursuant to Ohio R.C. 2925.11(G) or 2951.02(H), unless the offender previously has been convicted of a drug abuse offense, in which case drug abuse is a misdemeanor of the second degree.

(d) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license or other right or privilege, or made in connection with the person's appearance as a witness.

(e) (1) Notwithstanding the fines otherwise required to be imposed pursuant to Section 501.99, for violations of this section, and notwithstanding Ohio R.C. 2929.22, the court shall impose a mandatory fine of seven hundred fifty dollars (\$750.00) if the violation of this section was a misdemeanor of the second degree, a mandatory fine of five hundred dollars (\$500.00) if the violation of this section was a misdemeanor of the third degree, a mandatory fine of two hundred fifty dollars (\$250.00) if the violation of this section was a misdemeanor of the fourth

degree, and a mandatory fine of one hundred dollars (\$100.00) if the violation of this section was a minor misdemeanor.

(2) The court may impose a fine in addition to a mandatory fine imposed pursuant to paragraph (e)(1) hereof if the total of the additional and mandatory fines does not exceed the maximum fine that could be imposed pursuant to Section 501.99.

(3) Notwithstanding any contrary provision of Ohio R.C. 2925.11 or 3719.21, fifty percent of any mandatory fine imposed pursuant to paragraph (e)(1) hereof shall be paid by the clerk of the court into the Law Enforcement Trust Fund of the Municipality required to be established by Ohio R.C. 2933.43(D)(1)(c) and fifty percent shall be paid into the General Fund of the Municipality. Any additional fine imposed pursuant to paragraph (e)(2) hereof shall be disbursed by the clerk of the court as otherwise provided by law.

(4) If a person is charged with any violation of this section and posts bail pursuant to Ohio R.C. 2937.22 to 2937.46 or Rule 46 of the Ohio Rules of Criminal Procedure, and if the person forfeits the bail, the forfeited bail shall be paid by the clerk of the court in accordance with and subject to the requirements of, and shall be used as specified in, paragraph (e)(3) hereof.

(5) No court shall impose a mandatory fine pursuant to paragraph (e)(1) hereof upon an offender who alleges, in an affidavit filed with the court prior to his or her sentencing, that he or she is indigent and is unable to pay any mandatory fine imposed pursuant to such paragraph, if the court determines the offender is an indigent person and is unable to pay the fine.

(f) In addition to the penalties provided in this section, the court may proceed as provided in Ohio R.C. 2925.11(F) through (H) and the State Registrar of Motor Vehicles shall proceed as provided in Ohio R.C. 4507.169.

Section 5. Section 513.045 Use or Possession of Marihuana Paraphernalia of the Codified Ordinances of the City of Lakewood, currently reading as follows:

(a) As used in this section, “drug paraphernalia” has the same meaning as in subsection (a) of Section 513.04.

(b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in subsection (b) of Section 513.04.

(c) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

(d) This section does not apply to any person identified in subsection (d)(1) of Section 513.04, and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Ohio R.C. 3719.172.

(e) Subsection (e) of Section 513.04 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(f) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.

is hereby repealed.

Section 6. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 7. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least two thirds of members of Council, this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

Sarah Kepple, President of Council

Maureen M. Bach, Clerk of Council

Approved: _____

Meghan F. George, Mayor