

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE CODE OF
ORDINANCES AT CHAPTER 14 "OFFENSES AND MISCELLANEOUS
PROVISIONS" TO CREATE ARTICLE IX "POSSESSION OF SMALL
AMOUNT OF MARIJUANA"**

The Council of Plymouth Township, Montgomery County, Pennsylvania, does hereby enact and ordain that the Code of Ordinances of the Township of Plymouth, Pennsylvania, is hereby amended as follows:

Section I. By amending Chapter 14 "Offenses and Miscellaneous Provisions" to create Article IX "Possession of Small Amount of Marijuana" as follows:

§14-110 Definitions

MARIJUANA or MARIHUANA

All forms of/or varieties of the genus Cannabis Sativa L., whether growing or not, as defined by Pennsylvania's Controlled Substance, Drug, Device and Cosmetics Act as set forth at 35 P.S. § 780-101, et seq.

DRUG PARAPHERNALIA (as it relates to marijuana)

As defined by Pennsylvania's Controlled Substance, Drug, Device and Cosmetics Act as set forth at 35 P.S. § 780-101, et seq.

PRIVATE PROPERTY USED TO ACCOMMODATE THE PUBLIC

Any building, structure, equipment or other thing, including the land upon which it is situated, abutting premises that are used incidentally for the accommodation of the public, including the sidewalks and streets adjacent thereto.

PUBLIC PLACE

Any place to which the public has access, including any public street or public sidewalk, public alley, public mall, public common, public municipal parking lot, a vehicle in or upon any street, alley, park or parking areas, or other public ground within the Township or in or about the areas in front of or adjacent to any building or structure used in whole or in part for dwelling or rooming or boarding purposes or for business, amusement, commercial, mercantile, manufacturing, industrial, storage or recreational purposes, including any stores, restaurants, taverns, movie theaters or other businesses. Schools and educational buildings are not considered a Public Place for purposes of this Ordinance.

PUBLIC RIGHT-OF-WAY

All public streets, alleys, sidewalks, steps and other corridors through which either vehicles or persons may travel, including motor vehicles parked within such right-of-way.

SMALL AMOUNT OF MARIJUANA

Thirty grams or less of marijuana or eight grams or less of hashish as set forth in 35 P.S. § 780-113(a)(31).

SMOKING

Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other such device which contains marijuana. Smoking includes devices designed to vaporize marijuana or marijuana extracts.

§14-111 Possession of Small Amount of Marijuana.

1. So long as marijuana shall be listed as a controlled substance in the Controlled Substance, Drug, Device and Cosmetic Act, 1972, April 14, P.L. 233, No. 64, § 1 et seq., 35 P.S. § 780.101 et seq., no person shall be in possession of a small amount of marijuana as defined in said act.
2. The following shall be a summary violation of this Part:
 - a. Possessing a small amount of marijuana as herein defined.
 - b. Possessing paraphernalia used to smoke marijuana.
 - c. Smoking a small amount of marijuana as herein defined in a public place or private property used to accommodate the public.
3. Persons who are found in violation of this section may be issued a non-traffic citation by the police or other authorized law enforcement officer. Alternatively, the officer may obtain the subject's name and address and later send a non-traffic citation through the Magisterial District Judge's office.
4. The parent or guardian of a minor under the age of 18 years who violates § 14-111, Subsection 2a, b or c, shall also be in violation of this section. The officer who observes a violation of this section by a minor may:
 - a. Temporarily detain the minor and follow all existing procedures for the handling of summary offenses committed by a minor;
 - b. Advise the parent or guardian that the minor was found in possession of a small amount of marijuana;
 - c. Issue a non-traffic citation to the minor or to the parent or guardian on behalf of the juvenile offender; and
 - d. Provided that such agency exists, provide the parent or guardian with contact information for agencies where substance abuse educational and treatment programs are available.

5. Penalties for Violation.

- a. The penalty for a violation of § 14-111, Subsection 2a, of this Part by an adult or minor under the age of 18 shall be a fine of \$25 for each violation.
- b. The penalty for a violation of § 14-111, Subsection 2b, of this Part by an adult or minor under the age of 18 shall be a fine of \$25 for each violation.
- c. The penalty for a violation of § 14-111, Subsection 2c, of this Part by an adult or minor under the age of 18 shall be a fine of \$100 for each violation.

6. Enforcement.

- a. A non-traffic citation issued under this chapter shall be enforced in accordance with the procedures established by the Plymouth Township Police Department for enforcement of summary violations.
- b. This chapter shall not be construed to supersede any existing Pennsylvania or federal law. Plymouth Township Police Department officers retain the authority to enforce any applicable laws.

Section 2. All provisions of the Code of Ordinances of Plymouth Township unaffected by this Ordinance are declared to be in full force and effect. Any provisions of the Code of Ordinances of Plymouth Township inconsistent with the provisions of this Ordinance are hereby repealed to the extent of the inconsistency.

Section 3. The provisions of this Ordinance are declared to be severable and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, the Township Council hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance.

ORDAINED AND ENACTED by the Council of Plymouth Township, Montgomery County, Pennsylvania, this _____ day of _____, 2020.

COUNCIL OF PLYMOUTH TOWNSHIP

BY: _____
Christopher G. Manero, Chair

ATTEST: _____
Karen B. Weiss, Manager/Secretary