

ORDINANCE NO. 586

**EAST NORRITON TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

AN ORDINANCE OF EAST NORRITON TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING THE EAST NORRITON TOWNSHIP CODE OF ORDINANCES TO ADD A NEW ARTICLE TO PART II, GENERAL LEGISLATION UNDER CHAPTER 90: “DRUGS AND DRUG PARAPHERNALIA” TO ESTABLISH A MECHANISM TO PROCESS THE MINOR NONVIOLENT OFFENSES OF PERSONAL POSSESSION OR PERSONAL USE OF A SMALL AMOUNT OF MARIJUANA AND PERSONAL POSSESSION OF MARIJUANA PARAPHERNALIA WITHIN THE LIMITS OF EAST NORRITON TOWNSHIP; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL INCONSISTENT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, East Norriton Township (“Township”) is a duly organized Township operating in accordance with the Pennsylvania Second Class Township (“Code”); and

WHEREAS, Section 1506 of the Pennsylvania Second Class Township Code, 53 P.S. § 1506, vests the Township Board of Supervisors with the power to: “make and adopt any ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth necessary for the proper management, care and control of the township and its finances and the maintenance of peace, good government, health and welfare of the township and its citizens, trade, commerce and manufacturers.”; and

WHEREAS, numerous Pennsylvania municipalities including the Municipality of Norristown, the Borough of Folcroft, the City of Lancaster, the City of York, the City of Bethlehem and the City of Harrisburg, have exercised their power and authority by ordinance to address the processing and handling of minor nonviolent offenses for the personal possession or personal use of a small amount of marijuana, and the personal possession of marijuana paraphernalia within municipal limits; and

WHEREAS, in accordance with the powers and duties vested in the East Norriton Township Board of Supervisors under the Code and Pennsylvania law, including those inherent police powers for the enforcement and regulation of certain local offenses, the Board of Supervisors of East Norriton Township now desires to enact an ordinance addressing the processing and handling of minor nonviolent offenses for the personal possession or personal use of a small amount of marijuana and the personal possession of marijuana paraphernalia within the limits of East Norriton Township that the Board of Supervisors believes is for the benefit of the general safety and welfare of the residents of the Township.

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Board of Supervisors of East Norriton Township an ordinance as follows:

SECTION I: Adoption of Part II, General Legislation, Chapter 90, Article II titled “Drugs and Drug Paraphernalia.”

The Board of Supervisors hereby adopts and establishes a new Article II to Chapter 90 to the East Norriton Township Code of Ordinances titled “Drugs and Drug Paraphernalia” under Part II, General Legislation that shall state as follows:

§ 90-11. Legislative findings and intent.

The purpose and intent of this chapter is to promote the general safety and welfare of the public by establishing a mechanism to process the minor nonviolent offenses of personal possession or personal use of a small amount of marijuana and personal possession of marijuana paraphernalia within the limits of the East Norriton Township and is not to promote or condone the possession or use of marijuana or marijuana paraphernalia.

§ 90-12. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

MARIJUANA

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

MARIJUANA PARAPHERNALIA

Any device, instrument, apparatus or object used, intended to be used, or designed to be used for introducing marijuana into the human body or for storing, containing, concealing or transporting marijuana.

PERSONAL POSSESSION

Actual physical custody of or the ability to exercise control over or have access to, for the sole purpose of one's own personal use. The term "personal possession" does not include possession with intent to deliver, distribute, transfer or sell.

PERSONAL USE

Introducing marijuana into one's own body, which includes smoking, inhaling, exhaling, vaporizing, or burning any lighted cigar, cigarette, pipe or other such device which contains marijuana or marijuana extracts.

SMALL AMOUNT

Thirty (30) grams or less of marijuana or eight (8) grams or less of hashish as set forth in Pennsylvania's Controlled Substance, Drug, Device, and Cosmetic Act, 35 P.S. § 780-113(a)(31).

§ 90-13. Personal possession or personal use of a small amount of marijuana.

- A. 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.

- B. The following shall be violations of this section of this chapter:
- (1) Personal possession of a small amount of marijuana; or
 - (2) Personal use of a small amount of marijuana.
- C. Any person who is found in violation of this section of this chapter shall be issued a nontraffic summary citation by the Township police or other authorized law enforcement officer or, alternatively, the officer can obtain the subject's name and address and later send the citation by first-class mail, all to be in accordance with the Pennsylvania Rules of Criminal Procedure.
- D. Any police officer or other authorized law enforcement officer who observes a violation of this section of this article by a person under 18 years of age shall:
- (1) Temporarily detain the minor and follow all existing procedures for the handling of summary offenses committed by a minor;
 - (2) Advise the parent or guardian that the minor was found in personal possession of a small amount of marijuana or to have been engaging in personal use of a small amount of marijuana;
 - (3) Issue a copy of the citation to the parent or guardian advising that he or she is responsible for the payment of the violation fine; and
 - (4) Provide the parents or guardian with contact information for a local agency where substance abuse educational and treatment programs are available.

§ 90-14. Personal possession of marijuana paraphernalia.

- A. So long as drug paraphernalia includes objects used in connection with marijuana possession or use 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 marijuana paraphernalia.
- B. It shall be a violation of this section of this chapter to be in personal possession of marijuana paraphernalia.
- C. Any person who is found in violation of this section of this article shall be issued a nontraffic summary citation by the Township police officer or other authorized law enforcement officer or, alternatively, the officer can obtain

the subject's name and address and later send the citation by first-class mail, all to be in accordance with the Pennsylvania Rules of Criminal Procedure.

- D. Any law enforcement officer who observes a violation of this section by a person under 18 years of age shall:
- (1) Temporarily detain the minor and follow all existing procedures for the handling of summary offenses committed by a minor;
 - (2) Advise the parent or guardian that the minor was found in personal possession of a small amount of marijuana or to have been engaging in personal use of a small amount of marijuana;
 - (3) Issue a copy of the citation to the parent or guardian advising that he or she is responsible for the payment of the violation fine; and
 - (4) Provide the parents or guardian with contact information for a local agency where substance abuse educational and treatment programs are available.

§ 90-15. Penalties.

- A. The penalty for first violation, and all subsequent violations, of § 290-3 of this article relating to personal possession of a small amount of marijuana shall be a fine of \$100.00.
- B. The penalty for first violation, and all subsequent violations, of § 290-3 of this article relating to personal use of a small amount of marijuana shall be a fine of \$100.00.
- C. The penalty for first violation, and all subsequent violations, of § 290-4 of this article relating to personal possession of marijuana paraphernalia shall be a fine of \$100.00.
- D. The court may, in its discretion, suspend the fine imposed under this section if the person found guilty agrees to and does, in fact, perform such community service as the court deems appropriate, of as much as twenty-five (25) hours for a determination of guilt for possession of a small amount of marijuana or personal possession of marijuana paraphernalia and twenty-five (25) hours for personal use of a small amount of marijuana.

§ 90-16. Enforcement.

- A. A nontraffic summary citation issued under this article shall be enforced in accordance with the procedures established by the East Norriton Township Police Department for enforcement of summary violations.

- B. The Chief of Police or his or her designee shall report to the Township Board of Supervisors regarding implementation of this article on an annual basis for the first three (3) years following adoption of this article.

- C. This article shall not be construed to supersede any existing Pennsylvania or federal law. The East Norriton Township police and law enforcement officers retain the authority to enforce any applicable laws, and it is the Board of Supervisors' intent that such law enforcement officers may undertake custodial arrests where there is probable cause to believe that a criminal offense other than personal possession or personal use of a small amount of marijuana or personal possession of marijuana paraphernalia has been or is being committed.

SECTION II: SEVERABILITY

In the event that any section, sentence, clause, or word of this Ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose the validity of the remaining portions of this Ordinance.

SECTION III: REPEALER

All ordinances or resolutions or parts thereof inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specially repealed.

SECTION IV: EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its approval as required by the law.

ORDAINED AND ENACTED by the Board of Supervisors of East Norriton Township, Montgomery County, Pennsylvania, this 22nd day of September, 2020.

Attest:




Robert R. Hart, Esq.
Secretary

**EAST NORRITON TOWNSHIP
BOARD OF SUPERVISORS**



Kevin McDevitt
Chairman