

MUNICIPALITY OF NORRISTON  
A HOME RULE MUNICIPALITY  
MONTGOMERY COUNTY, PENNSYLVANIA

**ORDINANCE NO. 19-13 of 2019**

**AN ORDINANCE OF THE MUNICIPAL OF NORRISTON, MONTGOMERY COUNTY, PENNSYLVANIA, AMENDING THE NORRISTOWN MUNICIPAL ORDINANCES TO ADD A NEW CHAPTER 140 TITLED “DRUGS AND DRUG PARAPHERNALIA” UNDER PART II, GENERAL LEGISLATION 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 THE MUNICIPALITY OF NORRISTOWN; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL INCONSISTANT ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Municipality of Norristown (“Municipality”) is a Home Rule Municipality organized operating in accordance with the Charter of the Municipality of Norristown (“Charter”) as permitted by the Home Rule Charter and Optional Plans Law, 53 Pa. C.S. 2901 *et seq.*;

**WHEREAS**, Section 41.2-201 of the Charter (346 Pa. Code § 41.2-201) grants to the Municipality the ability to “exercise all powers and perform any functions not denied by the Constitution of Pennsylvania, the General Assembly of Pennsylvania or this Charter as fully and completely as though they were specifically enumerated in this Charter;” and

**WHEREAS**, Section 41.3-301 of the Charter grants to Municipal Council “All powers and duties of the Municipality, including those set forth in § 41.2-201 of this Charter and those in existence or hereafter conferred on the Municipality by the Constitution of Pennsylvania, or general law” that includes the power to: (1) “establish the policies, goals and objectives for the legislative, executive, administrative and advisory functions of the Municipality;” (2) “make and adopt ordinances and resolutions consistent with the Constitution and laws of this commonwealth and this Charter, and to prescribe fines and penalties for the violation thereof;” and (3) exercise “all necessary incidental powers to perform ... any of the duties and functions as set forth in this Charter or lawfully delegated to the office by this Charter or by general law; and

**WHEREAS**, numerous Pennsylvania municipalities including the City of Lancaster, the City of York, the City of Bethlehem and the City of Harrisburg, have exercised the power and the 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 Municipal Council under the Charter and Pennsylvania law, including those inherent police powers for the enforcement and

regulation of certain local offenses, Municipal Council 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 the Municipality of Norristown that Municipal Council believes is for the benefit of the general safety and welfare of the residents of the Municipality.

**NOW, THEREFORE,** be it **ORDAINED** and **ENACTED** by the Municipal Council of the Municipality of Norristown an ordinance as follows:

**SECTION I:** Adoption of Chapter 140, titled “Drugs and Drug Paraphernalia.”

Municipal Council hereby adopts and establishes a new Chapter 140 titled “Drugs and Drug Paraphernalia” under Part II, General Legislation that shall state as follows:

**§ 140-1. 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 Municipality of Norristown and is not to promote or condone the possession or use of marijuana or marijuana paraphernalia.

**§ 140-2. 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).

#### **§ 140-3. 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 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.

#### **§ 140-4. 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 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.

**§ 140-5. Penalties.**

A. The penalty for a first and second violation of § 140-3 of this article relating to possession of a small amount of marijuana shall be a fine of \$25.00.

B. The penalty for a third violation of § 140-3 of this article relating to possession of a small amount of marijuana shall be a fine of \$25.00.

C. The penalty for a first violation of § 140-3 of this article relating to personal use of marijuana shall be a fine of \$75.00.

D. The penalty for a second violation of § 140-3 of this article relating to personal use of marijuana shall be a fine of \$25.00.

E. The penalty for a third violation of § 140-3 of this article relating to personal use of marijuana shall be a fine of \$25.00.

F. The penalty for a first and second violation of § 140-4 of this article relating to personal possession of marijuana paraphernalia shall be a fine of \$25.00.

G. The penalty for a third violation of § 140-4 of this article relating to personal possession of marijuana paraphernalia shall be a fine of \$25.00.

H. Subsequent offenses. A person is only eligible to be charged under this article for three offenses within a five-year period. All subsequent offenses shall be charged in accordance with federal and Pennsylvania law.

I. 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 25 hours for a determination of guilt for possession of a small amount of marijuana or personal possession of marijuana paraphernalia and 25 hours for personal use of a small amount of marijuana.

#### **§ 140-6. Enforcement.**

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

B. The Chief of Police or his or her designee shall report to Municipal Council 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 Municipality of Norristown police and law enforcement officers retain the authority to enforce any applicable laws, and it is the Municipal Council's 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.

ENACTED AND ORDAINED this 6<sup>th</sup> day of January, 2019.

Seal:

**Municipality of Norristown  
Municipal Council**

By: Derrick Perry  
Derrick Perry  
Council President

Attest: Crandall O. Jones  
Crandall O. Jones  
Municipal Administrator