

Established Bill No. 22, Ordinance No. 20, Session 2017

ARTICLE 718
Marijuana Possession

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| 718.01 Definitions. | 718.03 Enforcement. |
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718.01 DEFINITIONS.

- (a) **“Marijuana”** or **“Marihuana”** means all form 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 in 35 Pa.C.S.A. §§780-101, et seq.
- (b) **“Public Space”** means a street, park, sidewalk, a vehicle in or upon any street, alley, park or parking area, or any other place to which the public is invited.
- (c) **“Small amount of Marijuana”** means 30 grams or less of Marijuana or 8 grams or less of hashish as set forth in 35 Pa.C.S.A. §780-113(a)(31).
- (d) **“Smoking”** means 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.

718.02 POSSESSION OR SMOKING 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 a civil violation of this Section:
 - (1) Possessing a small amount of marijuana.
 - (2) Smoking a small amount of marijuana in any public space.
- (c) Persons who are found in violation of this Section shall be issued a Notice of Violation by the police or other authorized law enforcement officer. Alternatively, the officer can obtain the subject’s name and address and later send a Notice of Violation by First Class Mail.
- (d) This ordinance only applies to persons eighteen (18) years old and over.

718.03 ENFORCEMENT.

(a) A Notice of Violation issued under this Article 718, shall be enforced in accordance with the procedures established by the Police Department for enforcement of summary violations.

(b) This Ordinance shall not be construed to supersede any existing Pennsylvania or Federal law. York City police officers retain the authority to enforce any applicable laws and it is Council's intent that police officers may undertake custodial arrests where there is probable cause to believe that a criminal offense other than simple possession of a small amount of marijuana has been or is being committed.

718.99 PENALTY.

(a) The penalty for a violation of subsection 718.02(b)(1) of this Section by an adult shall be a civil fine of one hundred dollars (\$100.00) for a first offense; two hundred fifty dollar (\$250.00) for a second offence; and five hundred dollars (\$500.00) for a third offense in a five year span. Any subsequent offense over third offense in a five year span will fall outside of this ordinance and shall be charged in accordance with Federal and Pennsylvania law. The court may in its discretion suspend the fine imposed under this subsection 718.02(b)(1) for an offense if the person found liable agrees to and does in fact perform such community service as the court deems appropriate.

(b) The penalty for a violation of subsection 718.02(b)(2) shall be a civil fine of one hundred fifty dollars (\$150.00) for a first offense; three hundred dollars (\$300.00) for a second offense; and six hundred dollars for a third offense. The court may in its discretion suspend the fine imposed under this subsection 718.02(b)(2) for an offense if the person found liable agrees to and does in fact perform such community service as the court deems appropriate.