

ARTICLE 718  
Marijuana Possession

- 718.01 Definitions.
  - 718.02 Possession or smoking of a small amount of marijuana.
  - 718.03 Personal possession of marijuana paraphernalia.
  - 718.04 Enforcement.
  - 718.99 Penalty.
- 

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 at 35 Pa.C.S.A. §§780-101, et seq.

(b) "Marijuana Paraphernalia" means 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.

(c) "Personal Possession" means actual physical custody of or ability to exercise control over or have access to, for the purpose of one's own personal use. The term "Personal Possession" does not include possession with intent to deliver, distribute, transfer, or sell.

(d) "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.

(e) "Small amount of Marijuana" means thirty (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).

(f) "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. (Ord. 19-2019. Passed 9-3-19.)

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 the citation by First Class mail, in accordance with the Pennsylvania Rules of Criminal Procedure.

(d) This ordinance only applies to persons eighteen (18) years old and over. (Ord. 19-2019. Passed 9-3-19.)

#### 718.03 PERSONAL POSSESSION OF MARIJUANA PARAPHERNALIA.

(a) So long as drug paraphernalia includes objects used in connection with marijuana possession of use in the "Controlled Substance, Drug, Device, and Cosmetic Act," 1972, April 14, P.L. 233, No. 64, 1 et seq., 35 Pa.C.S.A. 780-101 et seq., no person shall be in possession of marijuana paraphernalia.

(b) It shall be a violation of this Section of this Article 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 non-traffic 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, in accordance with the Pennsylvania Rules of Criminal Procedure. (Ord. 19-2019. Passed 9-3-19.)

#### 718.04 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 Article 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. (Ord. 19-2019. Passed 9-3-19.)

#### 718.99 PENALTY.

(a) The penalty for a violation of Section 718.02(b)(1) and 718.03(b) by an adult shall be a civil fine of one hundred dollars (\$100.00) for a first offense; two hundred fifty dollars (\$250.00) for a second offense; 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 article and shall be charged in accordance with Federal and Pennsylvania law. The court may in its discretion suspend the fine imposed under this subsection for a violation of Section 718.02(b)(1) for a first offense if the person found liable agrees to and does in fact perform such community service as the court deems appropriate, up to nine hours.

(b) The penalty for a violation of Section 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 for a violation of Section 718.02(b)(2) for a first offense if the person found liable agrees to and does in fact perform such community service as the court deems appropriate, up to nine hours. (Ord. 19-2019. Passed 9-3-19.)