

BOROUGH OF EDGEWOOD

ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE 1072

AN ORDINANCE OF THE BOROUGH OF EDGEWOOD, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, PROVIDING FOR THE PENALTIES RELATED TO THE POSSESSION OF A SMALL AMOUNT OF MARIJUANA, PERSONAL USE OF MARIJUANA AND THE PERSONAL POSSESSION OF MARIJUANA PARAPHENALIA.

WHEREAS, under Pennsylvania's Controlled Substance, Drug, Device and Cosmetic Act 35, P.S. 780-113 (a)(31), the possession of a small amount of marijuana (up to 30 grams of marijuana or up to 8 grams of hashish) only for personal use, the possession of a small amount of marijuana with the intent to distribute it but not to sell it; or the distribution of a small amount of marijuana but not for sale is a misdemeanor punishable by up to thirty (30) days of imprisonment, a \$500 fine, or both, and;

WHEREAS, under Pennsylvania's Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. 780-113 (a)(32), the use of, or possession with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this act is a misdemeanor punishable by up to one (1) year of imprisonment, a \$2,500 fine, or both, and;

WHEREAS, Edgewood Borough Council respects the laws of the Commonwealth of Pennsylvania and fully supports the Officers of the Edgewood Borough Police Department exercising their professional discretion when encountering possible violations of Pennsylvania's Controlled Substance, Drug, Device and Cosmetic Act of 1972 and further supports Officers making custodial arrests when they believe additional criminal offenses may have been committed, and;

WHEREAS, this council is desirous of a penalty for those found to be publicly using or in possession of marijuana or marijuana paraphernalia within the municipal boundaries of Edgewood Borough and that penalty shall prove a meaningful deterrent to obvious criminal behavior and that the punishment should not burden the criminal justice system, and;

WHEREAS, this council believes that any alternatives to the punishment defined in 35 P.S. 780-113 et. seq. should be applied uniformly to all offenders, establish standards, and contain escalating penalties for repeated violation for the public use or possession of small amounts of marijuana or marijuana paraphernalia, and;

WHEREAS, municipalities across the Commonwealth of Pennsylvania have enacted similar local ordinances classifying the public, personal use or possession of marijuana or marijuana paraphernalia a summary offense.

NOW, therefore, be it ordained and enacted by the Council of the Borough of Edgewood:

SECTION 1: 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 the ability to exercise control over or have access to, for the sole purpose of one's own personal use. This does not include possession with intent to deliver, distribute, transfer, or sell.
- D. **PERSONAL USE** means 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.
- E. **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.
- F. **SMALL AMOUNT OF MARIJUANA** means thirty (30) grams or less of marijuana or eight (8) grams or less of hashish as set forth in 35 Pa.C.S.A. § 780-113(a)(31).

SECTION 2: POSSESSION

- 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.
 - 1. The following shall be a summary violation of this Section:
 - a. Personal Possession of a small amount of marijuana.
 - b. Personal use of a small amount of marijuana in any public space.
- B. 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.
 - 1. The following shall be a summary violation of this Section:
 - a. Personal possession of marijuana paraphernalia
- C. Persons who are found in violation of Section 2, § A or Section 2, § B shall be issued a Nontraffic Summary Citation by the police or other authorized law enforcement officer. Alternatively, the officer can obtain the subject's name and address and later send a Nontraffic Summary Citation by first-class mail.

SECTION 3: PENALTIES

A. Personal Possession

1. The penalty for a violation of Section 2, §A.1.(a) by an adult aged 18 + shall be:

- a. The penalty for a first violation in one (1) calendar year of personal possession of a small amount of marijuana shall be a fine of \$25.
- b. The penalty for a second violation in one (1) calendar year of personal possession of a small amount of marijuana shall be a fine of \$50.
- c. The penalty for a third violation and any subsequent violations in one (1) calendar year of personal possession of a small amount of marijuana shall be a fine of \$100 OR 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.

B. Personal use of a small amount of marijuana in any public space

1. The penalty for a violation of Section 2, §A.1.(b) by an adult aged 18 + shall be:

- a. The penalty for a first violation in one (1) calendar year of personal use of a small amount of marijuana shall be a fine of \$100.
- b. The penalty for a second violation in one (1) calendar year of personal use of a small amount of marijuana shall be a fine of \$150.
- c. Any subsequent offense over second violation in a (1) calendar year span will fall outside of this ordinance and shall be charged in accordance with Federal and Pennsylvania law.

C. Personal possession of marijuana paraphernalia

1. The penalty for a violation of Section 2, §B.1.(a) by an adult aged 18 + shall be:

- a. The penalty for a first violation in one (1) calendar year of personal possession of marijuana paraphernalia shall be a fine of \$25.
- b. The penalty for a second violation in one (1) calendar year of personal possession of marijuana paraphernalia shall be a fine of \$50.
- c. The penalty for a third violation and any subsequent violations in one (1) calendar year of personal possession of marijuana paraphernalia shall be a fine of \$100 OR 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.

SECTION 4: ENFORCEMENT

- A. A Nontraffic Summary Citation issued under this Ordinance shall be enforced in accordance with the procedures established by the Police Department for enforcement of summary violations.
- B. To the extent possible, it is the intent that any revenue collected pursuant to this Ordinance be allocated to Edgewood youth sports and recreation.
- C. This Chapter shall not be construed to supersede any existing Pennsylvania or Federal law. Edgewood Borough Police officers retain the authority to enforce any applicable laws and it is Borough Council's intent that police officers may undertake custodial arrests where there is probable cause to believe that a criminal offense other than the simple possession or use of a small amount of marijuana, or possession of marijuana paraphernalia has been or is being committed.

SECTION 5: REPEALER

Any Ordinance or any part of any ordinance, in conflict herewith is repealed to the extent of such conflict.

SECTION 6: VALIDITY AND SEVERABILITY

The provisions of this Ordinance are severable and if any of its provisions or any part of any provision or individual amendment enacted hereby shall be held unconstitutional or otherwise held to be invalid, the decision of the Court shall not affect or impair any of the remaining provisions or amendments. It is hereby declared to be the intent of the Borough of Edgewood that this Ordinance would have been enacted had such unconstitutional provisions or parts thereof not been included herein.

SECTION 7: EFFECTIVE DATE

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

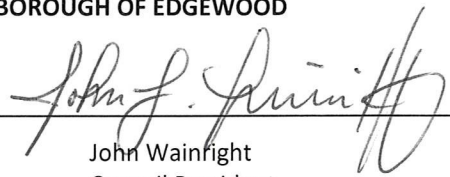
ORDAINED AND ENACTED this 3rd day of May, 2021.

ATTEST:

BOROUGH OF EDGEWOOD

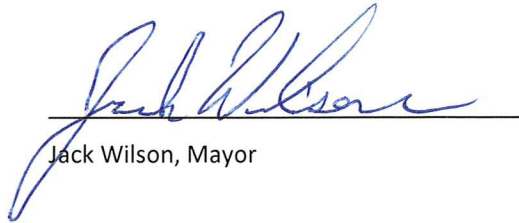


Rob Zahorchak
Borough Manager



John Wainright
Council President

EXAMINED AND APPROVED by me this 3rd day of May, 2021.



Jack Wilson, Mayor