

ORDINANCE NO.
FILE OF CITY COUNCIL
BILL NO. 17 - 2018

Introduced by Councilpersons Affa, Guridy, Mota and Robinson

May 2, 2018

AN ORDINANCE

Providing for the penalties related to the possession of small amounts of marijuana, personal use of marijuana and the personal possession of marijuana paraphernalia.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION 1 Article 736 of the Codified Ordinances of the City of Allentown, titled Marijuana Possession, is hereby established and shall read as follows:

Article 736
Marijuana Possession

736.01 DEFINITIONS

“Marijuana” means all forms or varieties of the genus Cannabis, whether growing or not, as defined by Pennsylvania's "Controlled Substance, Drug, Device and Cosmetic Act" as set forth at 35 Pa.C.S.A. § 780-101 et seq.

“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.

“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.

“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.

“Small Amount” means thirty grams or less of marijuana or eight grams or less of hashish as set forth in 35 Pa.C.S.A. § 780-113(a)(31).

736.02 POSSESSION

- a. Personal Possession or Personal Use of Small Amounts of Marijuana.

- (1) 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.
- (2) The following shall be summary offense violations of this section:
 - a. Personal possession of a small amount of marijuana; or
 - b. Personal use of a small amount of marijuana.

b. Personal Possession of Marijuana Paraphernalia

- (1) 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.
- (2) It shall be a summary offense violation of this section to be in personal possession of marijuana paraphernalia.

736.03 ENFORCEMENT

To the extent permitted by law, it is the intent that any revenue collected pursuant to this Article be evenly allocated to Allentown's Parks and Recreation Department for the various youth sports programs and to The City of Allentown's Police Department for any community engagement projects or events.

736.99 PENALTIES

a. Personal Possession

- (1) 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.
- (2) 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.
- (3) The penalty for a third violation in one (1) calendar year of personal possession of a small amount of marijuana shall be a fine of \$100.
- (4) The penalty for a fourth violation, or subsequent violations, in one (1) calendar year of personal possession of a small amount of marijuana shall be a fine of \$150 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, up to eight (8) hours.

b. Personal Use

- (1) The penalty for a first violation in one (1) calendar year for personal use of marijuana shall be a fine of \$25.
- (2) The penalty for a second violation in one (1) calendar year for personal marijuana shall be a fine of \$50.
- (3) The penalty for a third violation in one (1) calendar year for personal use marijuana shall be a fine of \$100.
- (4) The penalty for a fourth violation, or subsequent violations, in one (1) calendar year for personal use of marijuana shall be a fine of \$150 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, up to eight (8) hours.

c. Personal Possession of Marijuana Paraphernalia

- (1) The penalty for a first violation in one (1) calendar year of personal possession of marijuana paraphernalia shall be a fine of \$25.
- (2) The penalty for a second violation in one (1) calendar year of personal possession of marijuana paraphernalia shall be a fine of \$50.
- (3) The penalty for a third violation in one (1) calendar year of personal possession of marijuana paraphernalia shall be a fine of \$100.
- (4) The penalty for a fourth violation, or subsequent violations, in one (1) calendar year of personal possession of marijuana paraphernalia shall be a fine of \$150 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, up to eight (8) hours.

SECTION TWO: That this Ordinance will take effect ten (10) days after final passage.

SECTION THREE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

