

BOROUGH OF ABBOTTSTOWN  
ADAMS COUNTY, PENNSYLVANIA

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ORDINANCE No. 2020-01

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AN ORDINANCE OF THE BOROUGH OF ABBOTTSTOWN,  
ADAMS COUNTY, PENNSYLVANIA, PROVIDING FOR THE ASSESSMENT OF  
SUMMARY OFFENSES FOR THE POSSESSION OF SMALL AMOUNTS OF  
MARIHUANA (MARIJUANA) OR ASSOCIATED DRUG PARAPHERNALIA UNDER  
CERTAIN TERMS AND CONDITIONS AND SETTING PENALTIES FOR VIOLATIONS  
HEREIN.

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WHEREAS, when individuals are charged with possessing a “small amount” of Marihuana, defined as 30 grams or less of Marihuana or 8 grams of hashish, possessed for personal use and/or charged with possessing drug paraphernalia, police officers are required to appear for a Court hearing in every case where possession of a "small amount" or drug paraphernalia is charged; and

WHEREAS, merely being charged with a controlled substance violation can result in the loss of employment, housing opportunities or educational funding; and

WHEREAS, a growing number of States and Cities have recently passed laws as it pertains to the disposition of charges stemming from possession of small amounts of Marihuana for non-medical, personal or recreational use, and

WHEREAS, the Abbottstown Borough Police have limited resources, and

WHEREAS, this Ordinance is consistent with the “small amount" and drug paraphernalia sections of the Controlled Substance Act in that it assesses a penalty for the possession of Marihuana, as same remains illegal under Pennsylvania Law.

**NOW THEREFORE, THE COUNCIL OF THE BOROUGH OF ABBOTTSTOWN, ADAMS COUNTY, PENNSYLVANIA, HEREBY ENACTS AND ORDAINS AS FOLLOWS:**

SECTION 1  
**Definitions and Interpretation**

DEFINITIONS: For the purpose of this ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number and the word "shall" is always mandatory and not merely directory. In all references to persons, the use of any particular gender is intended to include the appropriate gender as the text of this Ordinance may require.

- A. "Borough" is the Borough of Abbottstown, which is located within the confines of Adams County, Pennsylvania.
- B. "Council" is the Council of Abbottstown, Adams County, Pennsylvania.
- C. "Person" is any natural person, firm, partnership, association, corporation, company, club, co-partnership, society or any organization of any kind.
- D. "Officer" is any member of the Abbottstown Borough Police Department.
- E. "Marihuana" consists of all forms, species and/or varieties of the genus *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin; but shall not include tetrahydrocannabinols, the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, cake, or the sterilized seed of such plant which is incapable of germination., as defined by Pennsylvania's "Controlled Substance, Drug, Device and Cosmetic Act" as set for at 35 PA. C.S.A. §§780-101, et seq. (herein referred to as "Marihuana").
- F. "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.
- G. "Small amount of Marihuana" means 30 grams or less of Marihuana or 8 grams or less of hashish, or consumable foods containing such, as defined and set forth in 35 PA. C.S.A. §780-113(a)(31).
- H. "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other such device which contains Marihuana. "Smoking" includes devices designed to vaporize Marihuana or Marihuana extracts.
- I. "Drug paraphernalia" means all equipment, products and materials of any kind

which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this act. It includes, but is not limited to:

(1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.

(3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

(5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marihuana.

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding-controlled substances.

(9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.

(11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body.

(12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marihuana, cocaine, hashish or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.

(ii) Water pipes.

(iii) Carburetion tubes and devices.

(iv) Smoking and carburetion masks.

(v) Roach clips; meaning objects used to hold burning material such as a marihuana cigarette, that has become too small or too short to be held in the hand.

(vi) Miniature cocaine spoons and cocaine vials.

(vii) Chamber pipes.

(viii) Carburetor pipes.

(ix) Electric pipes.

(x) Air-driven pipes.

(xi) Chillums.

(xii) Bongs.

(xiii) Ice pipes or chillers.

(13) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, statements by an owner or by anyone in control of the object concerning its use, prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal law relating to any controlled substance, the proximity of the object, in time and space, to a direct violation of this act, the proximity of the object to controlled substances, the existence of any residue of controlled substances on the object, direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of this act, the innocence of an owner or of anyone in control of the object, as to a direct violation of this act should not prevent a finding that the object is intended for use or designed for use as drug paraphernalia, instructions, oral or written, provided with the object concerning its use, descriptive materials accompanying the object which explain or depict its use, national and local advertising concerning its use, the manner in which the object is displayed for sale, whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products, direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise, the existence and scope of legitimate uses for the object in the community, and expert testimony concerning its use, or as defined in the Act 35 PA. C.S.A. §§780-101.

## SECTION 2

### **Possession of a Small Amount of Marihuana or Drug Paraphernalia**

- A. So long as Marihuana 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 Marihuana or drug paraphernalia as defined in said Act.
- B. The following shall be a summary violation of this Part:
- 1) Possessing a small amount of Marihuana as herein defined.
  - 2) Possessing drug paraphernalia as herein defined.
  - 3) Smoking/ingesting a small amount of Marihuana as herein defined in a public place.
- C. Persons who are found in violation of this Section may be issued a non-traffic citation by the police or other authorized law enforcement officer. Alternatively, the officer may obtain the subject’s name and address and later send a non-traffic citation through the Magisterial District Judge’s office.
- D. The officer who observes a violation of this Section by a minor may:
- 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 possession of a small amount of Marihuana and/or drug paraphernalia;
  - 3) Issue a non-traffic citation to the minor if the minor is 14 years of age or older and to the parent or guardian, and advise the parent or guardian that he or she is responsible for the payment of the violation fine; and
  - 4) Provided such agency exists, provide the parent or guardian with contact information for agencies where substance abuse educational and treatment programs are available.

## SECTION 3

### **Enforcement**

- A. A non-traffic citation issued under this Chapter shall be enforced in accordance with the procedures established by the Abbottstown Borough Police Department for enforcement of summary violations.
- B. This Chapter shall not be construed to supersede any existing Pennsylvania or Federal

Law. Abbottstown Borough Police Officers retain the authority to enforce any applicable laws.

SECTION 4  
**Penalties for Violation**

- A. The penalty for a violation of Section 2, B.1. of this Chapter by a minor or an adult over the age of eighteen (18) shall be a fine of fifty dollars (\$50.00) for each violation.
- B. The penalty for a violation of Section 2, B.2. of this Chapter by a minor or an adult over the age of eighteen (18) shall be a fine of fifty dollars (\$50.00) for each violation.
- C. The penalty for a violation of Section 2, B.3. of this Chapter by a minor or an adult over the age of eighteen (18) shall be a fine of one hundred dollars (\$100.00) for each violation.

SECTION 5  
**Severability**

If any section, clause, provision or portion of this ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this ordinance so long as it remains legally enforceable minus the invalid portion.

SECTION 6  
**Repealer**

All ordinances or parts of ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 7  
**Amendment**

The Borough reserves the right to amend this ordinance or any portion thereof from time to time as it shall deem advisable in the best interests of the promotion of the purposes & intent of this ordinance, & the effective administration thereof.

SECTION 8  
**Effective Date**

This Ordinance shall be effective five (5) days after the date of adoption, on March 24, 2020.

**ORDAINED AND ENACTED** this 19<sup>th</sup> day of March 2020.

**ATTEST:**

**THE BOROUGH OF ABBOTTSTOWN**

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David W. Bolton, Secretary

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Dennis Posey, President of Council

Approved this 19<sup>th</sup> day of March 2020.

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Duane Watson, Mayor