

COUNTY OF DELAWARE
PENNSYLVANIA

ORDINANCE NO. 2020-8

AN ORDINANCE OF THE COUNTY OF DELAWARE, COMMONWEALTH OF
PENNSYLVANIA PROVIDING FOR A CIVIL PENALTY FOR A MINOR PUBLIC
HEALTH VIOLATION IN DELAWARE COUNTY.

WHEREAS, the arrest, charging and prosecution of individuals possessing small amounts of marijuana represent a substantial cost to taxpayers as well as to law enforcement, prison, and court resources; and

WHEREAS, a civil penalty provides a practical tool and commonsense approach to controlling the use of marijuana and promotes greater efficiency in Delaware County's criminal justice system; and

WHEREAS, local police will remain able to charge individuals under the state criminal statutes when the circumstances warrant such an arrest;

IT IS HEREBY ENACTED AND ORDAINED by the County Council of Delaware County, Pennsylvania as follows:

Section 1. The title of Chapter 173 of the Delaware County Code is hereby amended to read, "SMOKING AND MINOR PUBLIC HEALTH VIOLATIONS."

Section 2. Chapter 173 of the Delaware County Code is hereby amended by the addition of Article II to read as set forth below:

ARTICLE II
Minor Public Health Violations

§ 173-5. Preamble.

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, Section 1 et seq., 35 P.S. 780-101 et seq., no person shall (i) purchase or attempt to purchase, (ii) be in possession of or (iii) smoke in any public space a small amount of marijuana or possess marijuana paraphernalia in the County of Delaware, Commonwealth of Pennsylvania, all as set forth in this Article.

§ 173-6. Offense Defined.

The following shall be a civil violation of this Ordinance:

1. Purchasing or attempting to purchase a small amount of marijuana;
2. Possessing a small amount of marijuana or marijuana paraphernalia; or
3. Smoking a small amount of marijuana in any public space;

provided, however, that this Ordinance shall not apply to any of these violations to the extent that they take place within or on the grounds of any public library or any public, private or parochial elementary or secondary school.

Procedure (Pa.R.Crim.P.), Procedures in Summary Cases, Parts A and B, Pa.R.Crim.P. 401-414.

3. The provisions of this ordinance shall not apply in any local municipality within the County of Delaware which has an ordinance similarly prohibiting the possession of a small amount of marijuana within said municipality and imposing penalties for violation of said ordinance.

4. This Ordinance shall not be construed to supersede any existing Pennsylvania or Federal law. Municipal police officers in Delaware County retain the authority to enforce the applicable statutory laws. It is the intent of Council that police officers may: (A) conduct any lawful search when there is probable cause to believe that a criminal offense has been or is being committed; and (B) make a custodial arrest when there is probable cause to believe a criminal offense other than one of the violations described in Section 173-6.

5. Any revenue collected by this Ordinance should be used for funding new or existing drug and alcohol abuse treatment and prevention programs.

Section 3. This Ordinance shall take effect on the tenth day after its adoption.

ENACTED AND ORDAINED by County Council of the County of Delaware, Pennsylvania, this ____ day of _____, 2020.

Brian P. Zidek, Chair

Dr. Monica Taylor, Vice Chair

Kevin M. Madden

Elaine Paul Schaefer

Christine A. Reuther

Attested:

Anne M. Coogan, County Clerk