

**WEST WHITELAND TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 463

AN ORDINANCE OF THE TOWNSHIP OF WEST WHITELAND, CHESTER COUNTY, PENNSYLVANIA, ADDING CHAPTER 230.A “POSSESSION OF SMALL AMOUNTS OF MARIJUANA” TO THE TOWNSHIP CODE, TO ESTABLISH A MECHANISM TO PROCESS THE MINOR NONVIOLENT OFFENSE OF PERSONAL POSSESSION OF A SMALL AMOUNT OF MARIJUANA WITHIN THE LIMITS OF THE TOWNSHIP, PURSUANT TO CERTAIN TERMS AND CONDITIONS.

WHEREAS, West Whiteland Township (the “Township”) is a duly organized township operating in accordance with the Pennsylvania Second Class Township Code, as amended (the “Code”);

WHEREAS, 53 P.S. § 66506 of the Code, entitled “General Powers,” authorizes the Township Board of Supervisors (the “Board”) to make and adopt ordinances necessary for, *inter alia*, the proper management, care and control of the Township, and the maintenance of peace, good government, health, and welfare of the Township and its citizens;

WHEREAS, the Board deems it to be in the best interest and the general welfare of the Township and its citizens to provide for a processing mechanism for the minor nonviolent offense of personal possession of a small amount of marijuana; and

WHEREAS, the Township wishes to provide for the assessment of a summary offense for the personal possession of a small amount of marijuana within the limits of the Township, under certain terms and conditions.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Supervisors of West Whiteland Township, Chester County, Pennsylvania, as follows:

SECTION 1. The Township Code is hereby amended to add a Chapter 230.A, entitled “Possession of Small Amounts of Marijuana” as follows:

Chapter 230.A Possession of Small Amounts of Marijuana

§ 230.A-1. Purpose and Intent

The purpose and intent of this Chapter is not to promote or condone the possession or use of marijuana or marijuana paraphernalia, but to promote the general welfare and safety of the public by establishing a mechanism to process the minor nonviolent offense of personal possession of a small amount of marijuana within the limits of the Township.

§ 230.A-2. Definitions

As used in this Chapter, the following terms shall have the meanings indicated unless a different meaning clearly appears from the context:

MARIJUANA or MARIHUANA

All forms of/or varieties of the genus Cannabis Sativa L., 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., and as may be amended.

PUBLIC PLACE

Any of the following shall be deemed a "Public Place" for purposes of this Ordinance:

- Any place to which the public has access, including but not limited to, any public street or public sidewalk, public alley, public mall, public common, public municipal parking lot; a vehicle in or upon any public street, alley, park, or parking areas; or other public ground within the Township; or
- Any place in or about the areas in front of or adjacent to any building or structure, including but not limited to any building or structure used in whole or in part for dwelling or rooming or boarding purposes, or for business, amusement, commercial, mercantile, manufacturing, industrial, storage, education, or recreational purposes, including but not limited to, any schools, stores, restaurants, taverns, movie theaters, or other businesses; or
- Any place or location in which a Township Police Officer, or other authorized law enforcement officer, is lawfully present.

SMALL AMOUNT OF MARIJUANA

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), and as may be amended.

SMOKING

Inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other such device that contains marijuana. Smoking includes doing so using devices designed to vaporize marijuana or marijuana extracts.

SUMMARY VIOLATION

Any violation listed in § 230.A-4. (Summary Violations), which may be issued in the form of 1) a West Whiteland Township Ticket ("Ticket"), using a standard form as developed administratively by the West Whiteland Township Police Department, and which, if not paid within fifteen (15) days of Ticket issuance, shall result in subsequent issuance of a non-traffic citation charging an offense classified as a summary offense pursuant to the terms of

this Ordinance; or 2) any non-traffic citation which may be directly issued charging an offense classified as a summary offense pursuant to the terms of this Ordinance.

§ 230.A-3. Controlled Substance

So long as marijuana shall be listed as a controlled substance in “The Controlled Substance Drug, Device and Cosmetic Act,” as set forth at 35 Pa. C.S.A. §§ 780-101, et seq., and as may be amended, no person shall be in possession of a small amount of marijuana as defined in said Act.

§ 230.A-4. Summary Violations

The following shall be a Summary Violation of this Chapter:

- A. Possessing a small amount of marijuana; or
- B. Smoking a small amount of marijuana in a public place; or
- C. Any combination of § 230.A-4.A and § 230.A-4.B.

§ 230.A-5. Persons in Violation

Persons who are found in violation of this Chapter may be issued a Ticket or non-traffic citation by the West Whiteland Township Police or any 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.

§ 230.A-6. Minors in Violation

The officer who observes a violation of this Section by a minor may take any one, and/or combination of, the following actions:

- A. Temporarily detain the minor and follow all procedures for the handling of the Summary Violation committed by the minor;
- B. Advise the parent or guardian that the minor was found in possession of a small amount of marijuana;
- C. Issue a non-traffic citation to the minor;
- D. Provided such agency exists, provide the parent or guardian with contact information for agencies where substance abuse educational and treatment programs are available.

§ 230.A-7. Penalties for Violation

- A. The penalty for a violation of Section § 230.A-4.A. of this Chapter by an adult, or minor under the age of eighteen (18), shall be a fine of twenty-five dollars (\$25.00) for each violation.
- B. The penalty for a violation of Section § 230.A-4.B. of this Chapter by an adult, or minor under the age of eighteen (18), shall be a fine of one hundred dollars (\$100.00) for each violation.
- C. If violations of both § 230.A-4.A. and § 230.A-4.B are present, the penalty shall be a fine of one hundred dollars (\$100.00) for each violation.
- D. If any Summary Violation issued in the form of a West Whiteland Township Ticket is not paid within fifteen (15) days of Ticket issuance, it shall result in the subsequent issuance of a non-traffic citation charging an offense classified as a summary offense pursuant to the terms of this Ordinance, and the amounts due shall then also include all fees and costs associated with processing the non-traffic citation.
- E. If any non-traffic citation is directly issued charging an offense classified as a summary offense pursuant to the terms of this Ordinance, the amounts due shall then also include all fees and costs associated with processing the non-traffic citation.

§ 230.A-8. Enforcement

- A. A non-traffic citation issued under this Chapter shall be enforced in accordance with the procedures established by the Township Police Department for enforcement of summary violations.
- B. This Chapter shall not be construed to supersede any existing Pennsylvania or federal law. Township Police Officers retain the authority to enforce any and all applicable laws.

SECTION 2. OFFICER AUTHORIZATION. West Whiteland Township Police or any other authorized law enforcement officers are authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Ordinance.

SECTION 3. SEVERABILITY. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included therein.

SECTION 4. REPEALER. All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

SECTION 5. PRESERVATION. Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby amended or repealed as cited in Sections 1 and 4 of this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

SECTION 6. GENERAL CODE. General Code Publishers Corp. is hereby authorized to make non-substantive formatting and numbering changes necessary to clarify references to other sections of Township ordinances and/or codifications and to bring this Ordinance into conformity with the Township ordinances/codifications.


SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective five (5) days after enactment as provided by law.

ENACTED AND ORDAINED this 8th day of September, 2021.

**WEST WHITELAND TOWNSHIP
BOARD OF SUPERVISORS**



Rajesh Kumbhardare, Chair

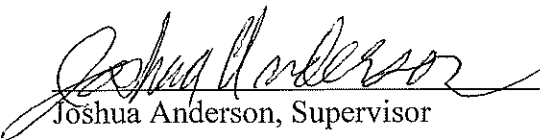


Theresa Santalucia, Vice-Chair

ATTEST:



Mimi Gleason,
Township Manager



Joshua Anderson, Supervisor