

# City proposes banning marijuana smoking in public

By JACK FICHTER  
Cape May Star and Wave

CAPE MAY — City Council introduced an ordinance prohibiting the smoking of marijuana in public areas including the Promenade and the Washington Street Mall.

At a March 16 council meeting, city solicitor Chris Gillen-Schwartz said the ordinance would cover public streets, sidewalks, public property, parks and “anything the municipality has an interest in.”

The ordinance does not ban smoking marijuana on private property including businesses, hotels, a front lawn, or porch of residence, he said. Areas where smoking marijuana in Cape May would be prohibited include the Promenade, Washington Street Mall, and any public street.

“I think this provides the clearest direction of where it’s appropriate and where

it’s not appropriate and that can help our police force in enforcing this,” Gillin-Schwartz said.

Fines can be levied on those smoking marijuana in public places, no less than \$100 nor more than \$250 for a first offense, a fine of not less than \$500 nor more than \$1,000 for a second or subsequent offense may be levied.

Gillin-Schwartz said the fines were in line with other municipalities in the county and some discretion is left to the municipal judge.

Councilman Chris Bezaire said there was concern among some residents of the city permitting the sale of marijuana in retail or commercial zones. He said time was of the essence to prohibit the smoking of marijuana in public areas since currently there was no local law on the books.

He said Cape May has 180 days from the date the state legalized recreational mari-

juana to dictate whether the city would allow the selling or cultivating of cannabis. Sale of marijuana and cultivation is currently not permitted in Cape May, Bezaire said.

“I think I can safely speak on behalf of council that we just don’t feel that’s in our best interest....” he said.

Mayor Zack Mullock said the ordinance was in agreement with Cape May’s “family values and family resort.” He said under the law, persons could want they want in their homes but not on public property.

A proviso in the state law legalizing recreational marijuana does not allow police to alert parents if their minor children are caught using marijuana. Mullock said he disagreed with that proviso and called it a disservice to police and parents.

Gillin-Schwartz said that provision of the law has received comment from many

municipalities and the state government may consider amending the law.

Deputy Mayor Stacy Sheehan said the ordinance also prohibited the vaping of marijuana.

During public comment, City Clerk Erin Burke read an email from resident Larry Reed, a member of the Cape May Elementary School Board of Education. He suggested the city pass a full ban on cannabis sales.

Reed stated the city should consider the cost of training police to recognize and respond to cannabis use, expenses of court hearings and challenges and taxing law already busy law enforcement personnel.

“With cannabis, there could likely be an influx of tourists coming due to the lure of this drug,” he said. “This would greatly impact enforcement practices.”

Resident Norman Ledwin said he worked in health-care for 48 years and it

can be proven that marijuana was a gateway to hard drugs.

Police Chief Dekon Fashaw said the state Attorney General’s Office gave police departments a reference card stating how police should interact with the public using marijuana. Fashaw said the reference card states the odor of marijuana burning or raw does not establish a reasonable suspicion to stop or search a person as a means to detain.

“It might make our efforts a little bit harder when we are trying to enforce this smoking ban on marijuana,” Fashaw said.

Gillin-Schwartz said the way he interpreted probable cause, it eliminated

state level violations but if the city creates a regulation, an officer would have the ability to “point out that conduct that’s regulated locally.”

“It just wouldn’t result in the violation of a state level charge,” Gillin-Schwartz.

Fashaw said officers had concerns about violating the civil rights of a citizen. He said someone smoking marijuana in a public area was not a breach of the peace offense, so it was not a crime.

Police will carry an information card explaining the violations. Bezaire said those who violated the marijuana smoking ordinance would not be detained but receive a citation.



Jack Fichter/CAPE MAY STAR AND WAVE

## Before and after

The Judge Nathaniel Foster House in Villas, circa 1730, has been freshly painted. The house is of First Period heavy timber frame construction and is being restored for use as a museum by Lower Township. The “before” photo is from March 2016 and the “after” photo was taken Monday, March 29.

**TIDES: March 31-April 7, 2021**

DATE	HIGH		LOW	
	A.M.	P.M.	A.M.	P.M.
31	10:43	11:11	4:29	4:40
1	11:35		5:24	5:30
2	12:05	12:33	6:23	6:26
3	1:05	1:39	7:27	7:29
4	2:12	2:54	8:35	8:39
5	3:24	4:09	9:44	9:51
6	4:34	5:16	10:49	10:57
7	5:35	6:12	11:44	11:56

**MOON PHASES**  
Last quarter, April 4 • new moon, April 12

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