



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2016	2017	2018	2019	2020
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<b>-0-</b>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_ No \_\_\_

Budget Account No.: Fund \_\_\_ Department \_\_\_ Unit \_\_\_ Object \_\_\_

Reporting Category \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

**C. Departmental Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

*Sherry M*  
 \_\_\_\_\_  
 9/25 OFMB

*Ann S. Jacobson* 9/28/15  
 \_\_\_\_\_  
 Contract Development and Control  
 B. Wheeler 9-28-15

**B. Legal Sufficiency:**

*Aileen Callahan*  
 \_\_\_\_\_  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.**

ORDINANCE NO. 2015-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ESTABLISHING THE “CIVIL CITATION FOR SMALL QUANTITY MARIJUANA POSSESSION ORDINANCE”; PROVIDING FOR A TITLE; PROVIDING FOR APPLICABILITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR CIVIL CITATION FOR CERTAIN MISDEMEANOR VIOLATIONS; PROVIDING FOR CIVIL PENALTIES AND ENFORCEMENT; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

1           **WHEREAS**, the Board of County Commissioners of Palm Beach County is given  
2 broad authority to enact ordinances and prescribe penalties for violation of those ordinances by  
3 the Florida Constitution, the Florida Statutes, and the Palm Beach County Charter; and

4           **WHEREAS**, the area of drug abuse control is not preempted by either the Florida  
5 Constitution or Florida Statutes, thus local governments may enact ordinances concerning drug  
6 abuse control, as long as the ordinance penalty does not exceed that of state law, *Edwards v.*  
7 *State*, 422 So. 2d 84, 85 (Fla. 2d DCA 1982); and

8           **WHEREAS**, the American Civil Liberties Union (ACLU) reports that between 2001  
9 and 2010 there were over 8 million marijuana arrests in the United States, marijuana arrests  
10 now account for over half (56%) of all drug arrests in the United States, and in 2010 states  
11 spent combined over \$3.6 billion enforcing marijuana possession laws; and

12           **WHEREAS**, the ACLU reports that the price paid by those arrested and convicted of  
13 marijuana possession can be significant and linger for years, if not a lifetime, including  
14 negative impacts on public housing and student financial aid eligibility, employment  
15 opportunities, child custody determinations, and immigration status; and

16           **WHEREAS**, in Palm Beach County between 2010 and 2014, police initiated 7,571  
17 cases where the most serious offense was for marijuana possession of 20 grams or less; and the  
18 vast majority (90%) of these cases resulted in the custodial arrest of an individual and  
19 admission to the local jail, while the remaining cases resulted in the issuance of a citation or  
20 notice to appear; and

21           **WHEREAS**, the Board of County Commissioners of Palm Beach County has  
22 determined that passage of this Ordinance which provides a civil citation alternative to arrest  
23 and criminal prosecution for adults who possess 20 grams or less of marijuana or marijuana

1 drug paraphernalia, will further the interest of the health, safety and general welfare of the  
2 public; and

3 **WHEREAS**, the Board of County Commissioners of Palm Beach County, pursuant to  
4 its authority under Florida Constitution, Article VIII, Section 1(g), Section 125.01, Florida  
5 Statutes, and the Palm Beach County Charter, hereby adopts the Palm Beach County Civil  
6 Citation for Small Quantity Marijuana Possession Ordinance; and

7 **WHEREAS**, the Board of County Commissioners has conducted a duly noticed public  
8 hearing to consider this Ordinance in accordance with Section 125.66, Florida Statutes.

9 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
10 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA**, that:

11 **SECTION 1. TITLE:**

12 This Ordinance shall be titled the Palm Beach County Civil Citation for Small Quantity  
13 Marijuana Possession Ordinance.

14 **SECTION 2. APPLICABILITY:**

15 This Ordinance shall be applicable within the unincorporated areas of Palm Beach County,  
16 Florida, and in all municipalities within Palm Beach County that elect to have the provisions of  
17 this Ordinance apply within their respective jurisdictions.

18 **SECTION 3. DEFINITIONS:**

19 As used in this Ordinance, unless some other meaning is plainly intended:

20 *Marijuana* means all parts of any plant of the genus *Cannabis*, whether growing or not;  
21 the seeds thereof; the resin extracted from any part of the plant; and every compound,  
22 manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. This  
23 term does not include “low-THC cannabis,” as defined in section 381.986, Florida Statutes  
24 (2015), if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in  
25 conformance with section 381.986, Florida Statutes.

26 *Marijuana drug paraphernalia* means all equipment, products, and materials of any  
27 kind which are used, intended for use, or designed for use in ingesting, inhaling, or otherwise  
28 introducing marijuana into the human body.

29 **SECTION 4. CIVIL CITATION FOR CERTAIN MISDEMEANOR VIOLATIONS:**

30 The following misdemeanor violations are eligible to receive a civil citation, at the discretion of  
31 a law enforcement officer, provided that such violations are not charged in conjunction with

1 any charge that is a felony, driving under the influence (DUI), incident involving domestic  
2 violence, or violent crime, as those terms are defined under State law:

3 (a) Possession, by a person 18 years of age or older, of marijuana in an amount of 20 grams  
4 or less, as set forth in section 893.13(6)(d), Florida Statutes, as such may be amended from time  
5 to time; and

6 (b) Possession, by a person 18 years of age or older, of marijuana drug paraphernalia.

7 **SECTION 5. CIVIL PENALTIES AND ENFORCEMENT:**

8 (a) This Ordinance is enforceable by all law enforcement officers.

9 (b) A person who is issued a civil citation pursuant to this Ordinance shall be subject to a  
10 civil fine of \$100.00.

11 (c) The County Court shall have jurisdiction over all violations of this Ordinance.

12 (d) The County Clerk shall accept designated fines and issue receipts therefor.

13 (e) A person issued a civil citation pursuant to Section 4 shall comply with all directives on  
14 the citation.

15 (f) A person who fails to make payment as provided on the citation, within the period  
16 specified on the citation, shall be deemed to have waived his or her right to pay the civil  
17 penalty as set forth on the citation.

18 (g) A person who elects to appear before the court to contest the civil citation shall be  
19 deemed to have waived his or her right to pay the civil penalty. The court, after conducting a  
20 hearing, shall determine whether a violation has occurred and may impose a civil penalty not to  
21 exceed five hundred dollars (\$500.00) plus court costs.

22 (h) If a person fails to pay the civil penalty, or fails to appear in court to contest the citation,  
23 he or she shall be deemed to have waived his or her right to contest the citation; and in such  
24 case, a default judgment may be entered and the judge shall impose a fine at that time. An  
25 order to show cause may be issued. If the fine is paid, the case shall be dismissed. If the fine is  
26 not paid, judgment may be entered up to the maximum civil penalty of five hundred dollars  
27 (\$500.00) plus court costs.

28 **SECTION 6. REPEAL OF LAWS IN CONFLICT:**

29 All local laws and ordinances in conflict with any provisions of this Ordinance are  
30 hereby repealed to the extent of such conflict.

1 **SECTION 7. SEVERABILITY:**

2 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any  
3 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void,  
4 such holding shall not affect the remainder of this Ordinance.

5 **SECTION 8. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

6 The provisions of this Ordinance shall become and be made a part of the Palm Beach  
7 County Code. The sections of this Ordinance may be renumbered or relettered to accomplish  
8 such, and the word Ordinance may be changed to section, article, or other appropriate word.

9 **SECTION 9. CAPTIONS:**

10 The captions, section headings, and section designations used in this Ordinance are for  
11 convenience only and shall have no effect on the interpretation of the provisions of this  
12 Ordinance.

13 **SECTION 10. EFFECTIVE DATE:**

14 The provisions of this Ordinance shall become effective upon filing with the  
15 Department of State.

16 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach  
17 County, Florida, on this the \_\_\_\_ day of \_\_\_\_\_, 2015.

18  
19 **SHARON R. BOCK, CLERK**  
20 **AND COMPTROLLER**

**PALM BEACH COUNTY, FLORIDA, BY ITS**  
**BOARD OF COUNTY COMMISSIONERS**

21  
22  
23 **By:** \_\_\_\_\_  
24 **Deputy Clerk**

**By:** \_\_\_\_\_  
**Shelley Vana, Mayor**

25  
26  
27  
28 **APPROVED AS TO FORM AND**  
29 **LEGAL SUFFICIENCY**

30  
31  
32 **By:** \_\_\_\_\_  
33 **County Attorney**

34  
35 **EFFECTIVE DATE: Filed with the Department of State on the \_\_\_\_ day of**  
36 **\_\_\_\_\_, 2015.**