

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)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	* -0-	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No _____

Budget Account No.: Fund _____ Department _____ Unit _____ Object _____
Reporting Category _____

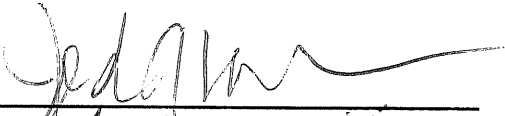
B. Recommended Sources of Funds/Summary of Fiscal Impact:

* Fiscal impact cannot be determined.

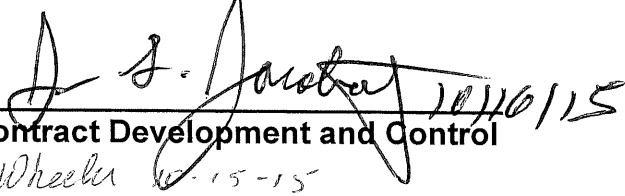
C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

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



J.D. Williams OFMB 10/15/15



Contract Development and Control 10/16/15
B. Wheeler 10-15-15

B. Legal Sufficiency:



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 Community service means uncompensated labor for a community service agency.

21 Community service agency means a not-for-profit corporation, community organization,
22 charitable organization, public officer, the state or any political subdivision of the state, or any
23 other body the purpose of which is to improve the quality of life or social welfare of the
24 community and which agrees to accept community service from persons.

25 *Marijuana* means all parts of any plant of the genus *Cannabis*, whether growing or not;
26 the seeds thereof; the resin extracted from any part of the plant; and every compound,
27 manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. This
28 term does not include “low-THC cannabis,” as defined in section 381.986, Florida Statutes
29 (2015), if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in
30 conformance with section 381.986, Florida Statutes.

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

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

5 The following misdemeanor violations are eligible to receive a civil citation, at the discretion of
6 a law enforcement officer, provided that such violations are not charged in conjunction with
7 any criminal charge that is a felony, driving under the influence (DUI), incident involving
8 domestic violence, or violent crime, as those terms are defined under State law:

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

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

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

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

15 (b) A person who is issued a civil citation pursuant to this Ordinance shall be subject to a
16 civil fine the following: of \$100.00

17 a. On receipt of a first civil citation: a civil fine of \$100 plus court costs; and
18 satisfactory completion of an approved substance abuse education class.

19 b. On receipt of a second civil citation: a civil fine of \$250 plus court costs;
20 satisfactory completion of an approved substance abuse education class; and 4 hours
21 of community service at a community service agency. The community service
22 agency supervising the person shall record the number of hours of community
23 service completed and the date the community service hours were completed. The
24 community service agency shall submit the data to the clerk of the court on the
25 letterhead of the community service agency, which must also bear the notarized
26 signature of the person designated to represent the community service agency.

27 (c) No person may receive more than two civil citations pursuant to this Ordinance.

28 (d) The County Court shall have jurisdiction over all violations of this Ordinance.

29 (e) The County Clerk shall accept designated fines and issue receipts therefor, accept proof
30 of the satisfactory completion of approved substance abuse education class, and accept proof of
31 satisfactory completion of community service.

1 (f) A person issued a civil citation pursuant to Section 4 shall comply with all directives on
2 the citation.

3 (g) A person who fails to make payment as provided on the citation, and fails to
4 satisfactorily complete an approved substance abuse education class and community service,
5 where applicable, within the period specified on the citation, shall be deemed to have waived
6 his or her right to pay the civil penalty as set forth on the citation.

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

11 (i) If a person fails to pay the civil penalty and fails to satisfactorily complete an approved
12 substance abuse education class and community service, where applicable, or fails to appear in
13 court to contest the citation, he or she shall be deemed to have waived his or her right to contest
14 the citation; and in such case, a default judgment may be entered and the judge shall impose a
15 fine at that time. ~~An order to show cause may be issued.~~ If the fine is paid and proof of
16 satisfactory completion of an approved substance abuse education class and satisfactory
17 completion of community service are provided, where applicable, the case shall be
18 ~~disposed~~dismissed. If the fine is not paid, and no proof of satisfactory completion of an
19 approved substance abuse education class and satisfactory completion of community service
20 are provided, where applicable, default judgment shall~~may~~ be entered up to the maximum civil
21 penalty of ~~five hundred dollars (\$500.00)~~ plus court costs.

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

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

25 **SECTION 7. SEVERABILITY:**

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

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

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

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12 the citation; and in such case, a default judgment may be entered and the judge shall impose a
13 fine at that time. If the fine is paid and proof of satisfactory completion of an approved
14 substance abuse education class and satisfactory completion of community service are
15 provided, where applicable, the case shall be disposed. If the fine is not paid, and no proof of
16 satisfactory completion of an approved substance abuse education class and satisfactory
17 completion of community service are provided, where applicable, default judgment shall be
18 entered up to the maximum civil penalty of \$500 plus court costs.

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

20 All local laws and ordinances in conflict with any provisions of this Ordinance are
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26 **SECTION 8. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

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28 County Code. The sections of this Ordinance may be renumbered or relettered to accomplish
29 such, and the word Ordinance may be changed to section, article, or other appropriate word.

1 **SECTION 9. CAPTIONS:**

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

5 **SECTION 10. EFFECTIVE DATE:**

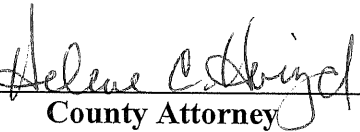
6 The provisions of this Ordinance shall become effective upon filing with the
7 Department of State.

8 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach
9 County, Florida, on this the ____ day of _____, 2015.

10
11 **SHARON R. BOCK, CLERK** **PALM BEACH COUNTY, FLORIDA, BY ITS**
12 **AND COMPTROLLER** **BOARD OF COUNTY COMMISSIONERS**
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14

15 **By:_____** **By:_____**
16 **Deputy Clerk** **Shelley Vana, Mayor**
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20 **APPROVED AS TO FORM AND**
21 **LEGAL SUFFICIENCY**

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24 **By: **
25 **County Attorney**
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27 **EFFECTIVE DATE: Filed with the Department of State on the ____ day of**
28 **_____, 2015.**