

Possession of Cannabis, Cannabis Paraphernalia  
and Alcohol Between the Ages of 18 and 20

**Frequently Asked Questions**

**1. This Ordinance is proposing:**

- Make possession of 20 grams or less of cannabis a code violation.
- Make possession of cannabis paraphernalia a code violation.
- Make possession of alcohol between the Ages of 18 and 20 a code violation.
- The Adult Civil Citation program is for a first time offender only.
- Fine of \$250.00

**2. Is this program decriminalizing cannabis/marijuana?**

- **No.**
- Possession of small amounts of marijuana (and paraphernalia) is still a State first degree misdemeanor.
- Under Florida Law, local governments cannot change this. Making possession a code violation with a civil citation gives law enforcement an option of enforcement of the law without the harsh consequences of making an arrest.

Under the law

- Possession of 20 grams or less of cannabis is a misdemeanor.
- Possession of cannabis paraphernalia is a misdemeanor.
- Possession of alcohol between the Ages of 18 and 20 is a misdemeanor.
  - State law provides:
    - Subject to arrest ; and
    - Up to one year in jail; and
    - Up to a \$1,000 fine; and
    - Up to 1 year probation; and
    - Possible life-Long criminal record.
  - Law – Law Enforcement Officers can:
    - Arrest; or
    - Confiscate and release suspect with a warning.
  - Ordinance provide for a third option:
    - Issuing a civil citation

**3. What is the Adult Civil Citation Program?**

- Adult Civil Citation is an alternative to first-time misdemeanor arrest.
- Adult Civil Citation is not a post-arrest diversion program.
- It is an intervention and diversion model that provides law enforcement a discretionary tool to divert adults from an arrest while still ensuring public safety and accountability.

**4. Who is eligible to receive a civil citation?**

- The Adult Civil Citation program is for first-time offenders (age 18 or older) who commit an eligible misdemeanor or violates a county or municipal ordinance.
- An individual will not be eligible to participate in this program if they have had a prior civil citation.
- Law enforcement officer acts as a code enforcement officer for purposes of immediate citation issuance, for individuals who are not concurrently charged with:
  - Any felony
  - DUI

- Violent crime, including any domestic violence charge

**5. Who decides when to issue a civil citation?**

- Only law enforcement officers have the discretion to issue a civil citation in lieu of arrest for a first time offender of a covered offense.

**6. How many times can a civil citation be issued to an offender?**

- The Adult Civil Citation program is for a first time offender only.
- The citation can only be issued once. Subsequent offenses will be handled in the same manner as other first degree misdemeanors.

**7. Will a Uniform Code/Civil Citation appear on one's criminal record?**

- No.
- Code violations like this are civil infractions that will not appear on one's criminal record.

**8. What if the offender is also breaking other more serious laws that involve a felony violation, driving under the influence, domestic violence, or any violent crimes?**

- Then they are subject to arrest.
- In addition, they could still be charged with possession of marijuana as a first degree misdemeanor under State law, in addition to whatever other charges they may face.

**9. What if the offender does not pay the fine?**

- If a future offense occurs; the courts may have the option to increase the civil penalty to a not to exceed amount of \$500.00 with payment being ordered by the court stake into consideration the outstanding unpaid fines.

**10. How will the officer know if the offender has been issued other citations?**

- Citations are a public record.
- Officers will be able to quickly search the Comprehensive Case Information System (CCIS) database for prior citations.

**11. What is Comprehensive Case Information System (CCIS) database?**

- The CCIS is a database through the Florida's Clerks of Court which serves as a secured single point of search for state wide court case information. The information held by the Clerks of Court that may be accessed through CCIS includes court case information, Official Records and performance and accountability measures. Users of CCIS include the judicial community, state and local law enforcement, state agencies and the Florida Legislature.

**12. What happens with the funds collected?**

- In accordance with Florida Statutes, funds collected shall be remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund. This civil citation is not a revenue generator. It is a discretionary tool which provides law enforcement with the ability to divert adults from an arrest while still ensuring public safety and accountability.

**12.13. What about medical marijuana allowed under State law?**

- The proposed ordinance would not apply to any type of medical marijuana (such as Charlotte's Web) permitted by State law.

**ORDINANCE 2016-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, PERTAINING TO POSSESSION OF TWENTY (20) GRAMS OR LESS OF CANNABIS; PERTAINING TO POSSESSION OF CANNABIS PARAPHERNALIA; PERTAINING TO UNLAWFUL POSSESSION OF ALCOHOL WHEN BETWEEN THE AGES OF 18 TO 20; AMENDING SECTION 20-4 OF THE FLAGLER COUNTY CODE OF ORDINANCES OF FLAGLER COUNTY, FLORIDA; PROVIDING FOR DEFINITIONS; PROVIDING FOR ENFORCEMENT AND FINES; PROVIDING FOR SEIZURE AND DESTRUCTION OF CONTRABAND CANNABIS, CANNABIS PARAPHERNALIA, AND ALCOHOL; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT AND PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 893.13(6)(b), Florida Statutes, makes possession of twenty (20) grams or less of cannabis a misdemeanor of the first degree, punishable as set forth in Section 775.083, Florida Statutes; and

**WHEREAS**, Section 893.147, Florida Statutes, makes possession of drug paraphernalia a misdemeanor of the first degree, punishable as set forth in Section 775.083, Florida Statutes; and

**WHEREAS**, Section 562.111, Florida Statutes, makes possession of alcohol by a person under the age of 21 a misdemeanor of the first degree, punishable as set forth in Section 775.083, Florida Statutes; and

**WHEREAS**, while this Ordinance does not decriminalize the aforementioned misdemeanors, the Board of County Commissioners of Flagler County has the authority to create a system of civil citation violations for the above misdemeanors, subject to the discretion of a law enforcement officer, limiting the use of such discretion to civil citations in incidents that do not involve any other felony violation, driving under the influence, domestic violence, or any violent crimes; and

**WHEREAS**, even if a person is ultimately found not guilty of a misdemeanor charge as identified above, that person may, as a result of being charged with a crime, suffer serious negative consequences at work, securing employment, securing student financial assistance, securing public housing, and, further, encounter difficulty obtaining a license for some professions, maintaining immigration status, and for child custody determinations; and

**WHEREAS**, filing criminal charges for possession of twenty (20) grams or less of cannabis for personal use, possession of cannabis paraphernalia, and possession of alcohol when between the ages of 18 to 20, is time consuming for law enforcement officers who might otherwise be able to spend their time addressing more serious crimes; and

**WHEREAS**, the County finds and declares that civil citation penalties and procedures may be more commensurate with any social harm caused by the possession of small amounts of cannabis, the possession of cannabis paraphernalia and possession of alcohol when between the ages of 18 to 20.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA AS FOLLOWS:**

**SECTION 1. FINDINGS.**

- A. The above recitals are incorporated herein as Findings of Fact.
- B. Legislative authority. This article is enacted pursuant to the authority vested in the Board of County Commissioners by Chapters 125 and 162, Florida Statutes, and through the powers granted to the County as a political subdivision of the State of Florida through Article VIII of the Constitution of the State of Florida.

**SECTION 2.** That Article 1, entitled "In General," of Chapter 20, entitled "Miscellaneous Provisions and Offenses," Section 20-4 of the Flagler County Code of Ordinances is hereby created as follows (additions are shown in double underline format and deletions are shown as strikethrough format) while retaining reserved sections, "Sec. 20-5 – 20-60 Reserved":

Sec. 20-4 — ~~20—60. Reserved.~~ **Possession of cannabis, cannabis paraphernalia and alcohol.**

**Sec. 20-4. Definitions.**

The following words, terms, and phrases, when used in this section have the meanings ascribed to them in this section:

Cannabis means all parts of any plant of the genus cannabis, whether growing or not, or the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include "low-THC cannabis" and medical cannabis, as defined in Section 381.986, Florida Statutes.

Cannabis paraphernalia means any object used, intended for use, or designed for use, in ingesting, inhaling, smoking, or otherwise introducing cannabis into the human body; or any object used, intended for use, or designed for use in storing, containing, concealing, or transporting cannabis.

#### **Sec. 20-4.1. Civil Citation Infraction.**

The following State law misdemeanor violations are hereby declared civil infractions and eligible to receive a civil citation, at the discretion of the law enforcement officer, provided that such violations are not charged in conjunction with any criminal charge specified in Section 20-4.2.3 herein:

1. Possession, by a person 18 years of age or older, of cannabis in an amount of 20 grams or less.
2. Possession, by a person 18 years of age or older, of cannabis paraphernalia.
3. Possession of alcohol when between the ages of 18 and 20.

#### **Sec. 20-4.2. Enforcement and Fines.**

1. This Ordinance shall be applicable within the unincorporated areas of the County and within any municipality that has formally made the provisions of this Ordinance applicable to its territorial jurisdiction. This Ordinance shall be implemented and enforced in accordance with Section 162.21, Florida Statutes, or any successor law. **For that purpose, violation of this Ordinance is deemed to be an irreparable or irreversible violation punishable by the civil penalties herein and is subject to immediate citation.**
2. This Ordinance is enforceable by the Flagler County Sheriff's Office law enforcement officers and any law enforcement officers within any Flagler County municipality that has formally adopted the provisions of this



Ordinance, and for that special purpose, they are designated as code enforcement officers hereunder in accordance with Section 162.21(2), Florida Statutes, or any successor law.

3. A civil citation shall not be issued if the violation occurred during an incident where the defendant also was charged with any felony, driving under the influence, any violent crime, or any act of domestic violence, as those violations are defined under State law.
4. A person charged with possession of cannabis under subsection 20-4.1(1) may not be charged with possession of paraphernalia under subsection 20-4.1(2) arising out of the same incident.
- 3-5. No person who has a previous conviction for a felony or misdemeanor violation including a violation of Chapter 893 of the Florida Statutes is eligible to receive a civil citation pursuant to this Ordinance, regardless of whether adjudication of guilt was imposed or withheld.
- 4-6. A person who is issued a civil citation pursuant to this Ordinance shall be subject to a fine of \$250.00.
- 5-7. The fine must be paid within 30 days of the date the citation was issued.
- 6-8. No person may receive more than one civil citation. ~~for each of the specified misdemeanor behaviors pursuant to this Ordinance.~~
- 7-9. As a condition for receiving a civil citation as defined in Section 20-4.1, in lieu of a misdemeanor charge, the recipient, by signing the civil citation, is waiving their right to contest the citation.
- 8-10. A person issued a civil citation shall comply with all directives on the citation.
- 9-11. Any person electing not to ~~receive-accept~~ a civil citation shall be deemed to have waived his or her right ~~to pay to participate in~~ the civil citation program. ~~penalty, and will be issued a Notice to Appear pursuant to Section 162.23, Florida Statutes.~~

10-12. A person who elects to appear before the court ~~shall~~ may be subject to civil penalties not to exceed \$500, should the court determine a violation has occurred.

11-13. The Flagler County Court shall have jurisdiction over all violations of this Ordinance.

12-14. The Flagler County Clerk of Court shall accept all designated fines and/or fees and issue receipts.

**Sec. 20-4.3. Seizure and Destruction of Contraband Cannabis, Cannabis Paraphernalia, and Alcohol.**

1. Any contraband cannabis, cannabis paraphernalia, or alcohol that is the subject of a violation of this Ordinance may be seized for evidentiary use.
2. Contraband cannabis, cannabis paraphernalia, or alcohol seized pursuant to this Ordinance, after its use as evidence is no longer required, may be destroyed in the same manner used to destroy narcotics as provided by law.

**Secs. 20-5—20-60. – Reserved.**

**SECTION 3. REPEAL OF LAWS IN CONFLICT.**

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

**SECTION 4. CODIFICATION AND SCRIVENER'S ERRORS.**

- A. The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of Flagler County, Florida, as additions and amendments thereto, and shall be appropriately renumbered and relettered to conform to the uniform numbering system of the Code. Scrivener's errors may be corrected as deemed necessary.
- B. The sections of this Ordinance shall be codified within the Flagler County Code of Ordinances. Sections not specifically amended herein shall remain unchanged by this Ordinance.

**SECTION 5. SEVERABILITY.**

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

[Signature Page to Follow]

**PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF  
FLAGLER COUNTY, FLORIDA THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2016.**

**FLAGLER COUNTY BOARD OF  
COUNTY COMMISSIONERS**

\_\_\_\_\_  
Barbara S. Revels, Chair

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Gail Wadsworth, Clerk of the  
Circuit Court and Comptroller

\_\_\_\_\_  
Al Hadeed, County Attorney