

Sec. 21-6. - Possession of twenty (20) grams or less of Cannabis.

(a) Definitions.

- (1) "Cannabis" means all parts of any plant of the genus Cannabis, whether growing or not, or the seeds thereof. The term does not include "low-THC cannabis," as defined in Section 381.986, Florida Statutes, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed in conformance with that section. "Cannabis" also does not include the resin extracted from the plants of the genus Cannabis, or any compound manufacture, salt, derivative, mixture, or preparation of such resin.
- (2) "Citation" means a notice of violation of this section, issued on a form approved by the County Administrator or designated representative and approved as to legal sufficiency by the County Attorney.
- (3) "Educational Program" means a presentation of information about the risks and effects of substance abuse. The County Administrator shall designate a person, persons, or entity with appropriate knowledge of the field of substance abuse to select or prepare the Educational Program in a manner consistent with standards of that field.
- (4) "First or Second Violation" means a violation of this section by a person who has received no more than one (1) previous Citation under this section, not counting Citations for which the person has been adjudicated not guilty.
- (5) "Screening" means evaluation of a person who receives a Citation under this Ordinance, for the purpose of determining the person's need for drug treatment or intervention. The County Administrator shall designate a person, persons, or entity with appropriate knowledge of the field of substance abuse to conduct the Screenings in a manner consistent with standards of that field.
- (6) "Third Violation" means a violation of this section by a person who has been found in violation of, or pleaded guilty to, violating this section on two (2) previous occasions.
- (7) "Treatment" means a professional clinical intervention for the purpose of mitigating a substance abuse condition. The County Administrator shall designate a person, persons, or entity with appropriate knowledge of the field of substance abuse to conduct the Treatment in a manner consistent with standards of that field.

- (b) [Violation.] It shall be a violation of this section for any person to be in actual or constructive possession of twenty (20) grams or less of Cannabis.

(c) Enforcement—In general.

- (1) This section shall be enforceable throughout Broward County, except within the boundaries of any municipality that, by majority vote of the governing body of the municipality, has enacted a conflicting ordinance or has formally elected not to be subject to the provisions of this section.
- (2) Any law enforcement officer in a jurisdiction in which this section applies shall have the discretion to issue a civil Citation under this section in lieu of a state misdemeanor charge for the same Violation, subject to the following limitations:
 - a. No Citation shall be issued under this section if the Violation occurred during an incident in which the defendant also was charged with any felony, driving under the influence, a violent crime, or an incident of domestic violence, as those Violations are defined under state law.
 - b. No Citation shall be issued under this section if the recipient has failed, in connection with a prior Citation, to either file an appeal pursuant to Chapter 8½ of this Code within ten (10) days after receipt, pay the fine within thirty (30) days after receipt, or participate in community service within sixty (60) days after receipt, or participate in a Screening and an Educational Program, and any required Treatment, as provided for in this section, unless the recipient was adjudicated not guilty in an appeal under Chapter 8½. Further, no

Citation shall be issued under this section to any person who has been adjudicated guilty under this section pursuant to Chapter 8½ and failed to comply with the order of the hearing officer.

- c. Citations for First, Second, and Third Violations may be issued only as provided in subsections (d) and (e) below.
- d. No Citation shall be issued to any person who already has received a Citation for a Third Violation.

(d) Enforcement—First or Second Violation.

- (1) Any person in violation of this section shall, for the First or Second Violation, be subject to penalties in accordance with Chapter 8½ of the Broward County Code of Ordinances ("Code"), subject to the following exceptions.
 - a. In lieu of paying the fine specified in Chapter 8½, a person in violation of this section may elect to participate in a community service program approved by the County Administrator or designated representative. The number of hours of community service required shall be eight (8) hours for the First Violation and sixteen (16) hours for the Second Violation. A hearing officer also may permit a person found guilty of violating this section to participate in community service in lieu of a fine.
 - b. Alternatively, in lieu of paying the fine specified in Chapter 8½ or performing the public service specified above, a person in violation of this section may elect to participate in a drug Treatment or Educational Program. Any cost of participation in such a drug Treatment or Educational Program shall be paid by the person cited at fees approved by the County Administrator or designated representative. Such fees may be set on a sliding scale. A hearing officer also may permit a person found guilty of violating this section to participate in a drug Treatment or Educational Program in lieu of a fine.
- (2) Enforcement procedures for First or Second Violations shall be as provided in Sections 125.69 and 162.21, Florida Statutes, and Chapter 8½ of this Code.
 - a. A violation of this section shall be considered "irreparable or irreversible" within the meaning of Chapter 8½ of this Code, such that a Citation may be issued immediately to any person found in violation.
 - b. Law enforcement officers shall be deemed "code inspectors" within the meaning of Chapter 8½ of the Code.
 - c. Regardless of what agency issues a Citation under this section, the County shall administer adjudication.
- (3) Any person who receives a Citation for a First or Second Violation under this section but fails to either file an appeal pursuant to Chapter 8½ of this Code within ten (10) days after receipt, pay the fine within thirty (30) days after receipt, or participate in community service within sixty (60) days after receipt, or who is adjudicated guilty under this section pursuant to Chapter 8½ and fails to comply with the order of the hearing officer, shall be reported to the agency that issued the Citation for further action.

(d) Enforcement—Third Violation.

- (1) As a condition for receiving a civil Citation for a Third Violation under this section in lieu of a misdemeanor charge, the recipient must consent to participate in a Screening and then to either complete required Treatment and Educational Programs or pay a fine, depending on the result of the Screening. The recipient also must consent to pay for the cost of participation in Treatment and Educational Programs, if warranted by the Screening. The County Administrator or designated representative shall set the cost of participation. Such fees may be set on a sliding scale. In lieu of paying a fine when no Treatment or Educational Program is warranted, the recipient may elect to perform sixteen (16) hours of community service.

- (2) Any person who withdraws consent to participate in a Screening or Treatment or an Educational Program, or who fails to comply with the terms of a Citation issued under this section within a reasonable period of time, as set by the County Administrator and stated in the Citation, shall be reported to the agency that issued the Citation for further action.
- (e) Seizure and destruction of contraband Cannabis.
 - (1) Any contraband Cannabis that is the subject of a violation of this section may be seized for evidentiary use.
 - (2) Contraband Cannabis seized pursuant to this section, after its use as evidence is no longer required, may be destroyed in the same manner used to destroy narcotics as provided by law.

(Ord. No. [2015-45](#), § 1, 11-10-15)

Editor's note— Ord. No. [2015-45](#), § 1, adopted Nov 10, 2015, enacted provisions intended for use as § 21-5. Inasmuch as there were already provisions so designated, said provisions have been included herein as § 21-6 at the direction of the city. Also see the editor's note to § 21-7.