

PROPOSED ORDINANCE NO. 2019-13

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PEMBROKE PINES, FLORIDA AMENDING CHAPTER 130, ENTITLED "GENERAL PROVISIONS" BY AMENDING SECTION 130.06, ENTITLED "ADULT CIVIL CITATION PROGRAM;" PROVIDING MODIFICATION TO REQUEST FOR PROVIDER; PROVIDING FOR THE ISSUANCE OF CIVIL CITATIONS FOR POSSESSION OF UP TO TWENTY (20) GRAMS OF CANNABIS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Pembroke Pines (the "City") in 2017 established an adult civil citation program that will allow non-violent, first-time offenders to avoid criminal penalties resulting from the commission of certain misdemeanor offenses; and

WHEREAS, in furtherance of this effort, the City sought to engage a qualified not-for-profit entity specializing in behavioral health, mental health and addiction recovery to assist with administration of the City's adult civil citation program; and

WHEREAS, the City solicited proposals from qualified not-for-profit entities and was not able to secure any qualified not-for-profit entity; and

WHEREAS, the City Commission has determined that it is in the best interests of the citizens and residents to permit for-profit and not-for-profit entities specializing in behavioral health, mental health and addiction recovery to assist with administration of the City's adult civil citation program.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct, and are hereby incorporated herein and made a part

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hereof. All exhibits attached hereto are incorporated herein and made a specific part hereof.

SECTION 2. Section 130.06 of the City's Code of Ordinance entitled "Adult Civil Citation Program" is hereby amended as follows:

Sec. 130.06 Adult Civil Citation Program

- A. *Policy and Intent.* It is the policy and intent of the City of Pembroke Pines for officers of the City's Police Department to use reasonable judgment and appropriate discretion when making decisions that may lead to an arrest or an alternative to arrest. The Adult Civil Citation Program is designed to divert first-time misdemeanor offenders from the criminal justice system. Department members are responsible for adhering to the following protocols in support of the program.
- B. *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:
 - 1) *ACC Program* shall mean the adult civil citation program established pursuant to this section.
 - 2) *Department* shall mean the City of Pembroke Pines Police Department.
 - 3) *Provider* shall mean the ~~not-for-profit~~ entity engaged by the City of Pembroke Pines to provide educational and/or counseling services as a component of the successful completion of the City's adult civil citation program.
- C. *Engagement of Provider.* The City shall contract with ~~a not-for-profit~~ an entity qualified to provide educational and/or counseling services related to mental or behavioral health and addiction recovery. Adults who receive a civil citation pursuant to this section may, at the Department's discretion or as provided by this section, be required to complete a program offered by the Provider. All fees and costs associated with the completion of a Provider program shall be the responsibility of the adult issued an adult civil citation pursuant to this section.
- D. The ACC Program shall only be available as an option to adults for misdemeanor offenses relating to:
 - 1) Criminal mischief, if the victim consents;

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- 2) Petit theft, if the victim consents;
- 3) Possession of alcohol by a person under 21 years of age;
- 4) Possession of ~~two (2)~~ twenty (20) grams or less of cannabis;
- 5) Possession of paraphernalia, which may be included if in possession of less than ~~2~~ twenty (20) grams of cannabis;
- 6) Offenses of assault and battery, if the victim consents.

E. Eligible adults who elect to participate in the ACC Program must agree to the issuance of the adult civil citation. By accepting and signing the adult civil citation, the adult misdemeanor offender:

- 1) Admits to have been informed of and understands their Miranda Rights;
- 2) Admits to the offense(s) cited and gives up their right to appear in court;
- 3) Agrees to waive their right to a speedy trial;
- 4) Agrees to have their case handled by the ACC Program;
- 5) Agrees to complete the required education/counseling program with the Provider and/or make restitution (if applicable) by the deadline assigned by the Pembroke Pines Police Department's Civil Citation Program;
- 6) Agrees, if the adult civil citation is being issued for possession of cannabis, to submit to drug screening by the Provider. If deemed necessary by the Department or the Provider upon receipt of the results of the screening, the offender agrees to participate in the Provider's addiction recovery program. Successful completion of the recovery program shall be a condition of completion of the ACC Program set forth in Subsection (O)(2).
- 7) Failure to successfully complete the program will result in the case being referred to criminal prosecution.
- 8) Failure to agree to the issuance of a civil citation may result in arrest.

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F. The officer shall advise of the ACC Program after the following eligibility criteria has been met:

1) The adult is cooperative, and:

- a. Does not have any prior arrests,
- b. Has not been previously issued an adult civil citation, and
- c. Agrees to the issuance of an adult civil citation.

3) The offense does not involve any of the following:

- a. Domestic violence
- b. Stalking
- c. Loitering and prowling
- d. Exhibition of sexual organs
- e. The offense committed is not traffic related.

G. Upon determining probable cause exists for the arrest of an adult, officers are responsible for determining the eligibility of the adult for the issuance of an adult civil citation. ~~They can determine if the adult has previously been issued an adult civil citation or is currently participating in the ACC Program by either calling the Department's ACC Program coordinator or contacting the Provider.~~

H. Officers shall explain the following to the adult:

- 1) The difference between an actual arrest and an adult civil citation, and
- 2) The option to refuse the adult civil citation.

I. If the adult offender refuses the adult civil citation and is arrested, the officer has the option to either:

- 1) Issue a Notice to Appear (NTA), or
- 2) Transport the adult to the Broward County Jail.

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- J. Officers are responsible for documenting the following in the offense or arrest paperwork:
- 1) The reason(s) for either issuing or not issuing an adult civil citation; and
 - 2) Any adult civil citation refusal.
- K. The signature of the adult on the adult civil citation attests to their agreement, and officers shall:
- 1) Issue Miranda warnings prior to obtaining the adult's signature on the adult civil citation, and
 - 2) Ensure the right thumbprint of the adult is placed in the bottom right corner on the adult civil citation form.
- L. Officers shall include the elements of the crime and all other pertinent information in the offense report narrative section.
- M. Adults issued an adult civil citation shall not be transported to the Broward County Jail.
- N. Supervisors are responsible for reviewing all arrest or adult civil citation documents and shall ensure:
- 1) Adults issued adult civil citations meet the criteria for adult civil citation issuance.
 - 2) Adults arrested did not meet the criteria for adult civil citation issuance.
 - 3) Officers followed the documentation requirements of this section.
- O. The Department member designated as the ACC Program Coordinator is responsible for the following:
- 1) Review of all completed adult civil citations to ensure correctness and compliance with program protocols.
 - 2) Completion of adult civil citation follow-up activities to include:
 - a. Upon being notified by the Provider that an adult has successfully completed the program, complete a supplemental offense report with a case status designation of *exceptional clearance*.

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- b. Upon being notified by the Provider that an adult has failed to complete the program, the Department will refer the adult to criminal prosecution.

P. Failure of the ACC program occurs when the adult:

- 1) Fails to comply with the assigned intervention services within the prescribed time period, or
- 2) Commits a new criminal offense prior to completion of the program.

Q. In addition to any conditions and penalties imposed pursuant to this section, adults issued an ACC shall be subject to a fine in an amount to be determined by the City.

R. Adults who successfully satisfy the requirements of this section and the ACC Program shall not incur any form of documented criminal record related to the issuance of the adult civil citation.

SECTION 3. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City's Code of Ordinances.

SECTION 4. That all ordinances and resolutions or parts of ordinances and resolutions in conflict herewith, be and the same are hereby repealed, to the extent of such conflict.

SECTION 5. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 6. That this Ordinance shall become effective immediately upon the date of adoption.

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PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, ON THE FIRST READING, THIS ____ DAY OF _____, 2019.

PASSED ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, ON THE SECOND AND FINAL READING, THIS ____ DAY OF _____, 2019.

CITY OF PEMBROKE PINES, FLORIDA

ATTEST:

**By: _____
MAYOR FRANK C. ORTIS**

MARLENE D. GRAHAM, CITY CLERK

ORTIS _____

CASTILLO _____

GOOD _____

APPROVED AS TO FORM:

SCHWARTZ _____

OFFICE OF THE CITY ATTORNEY

SIPLE _____