

ENROLLED ORIGINAL

AN ACT

D.C. ACT 20-305

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 31, 2014

To make the possession or transfer without remuneration of one ounce or less of marijuana a civil violation subject to a fine, to make the smoking of marijuana in public and marijuana impairment in public or on someone else's property crimes subject to fine or imprisonment, to establish the Substance Abuse Prevention and Treatment Fund, and to make technical and conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Marijuana Possession Decriminalization Amendment Act of 2014".

TITLE I. ONE OUNCE OR LESS OF MARIJUANA.

Sec. 101. Possession or transfer of one ounce or less of marijuana.

(a) Notwithstanding any other District law, the possession or transfer without remuneration of marijuana weighing one ounce or less shall constitute a civil violation.

(b) A violation of subsection (a) of this section shall not constitute a criminal offense or a delinquent act as defined in D.C. Official Code § 16-2301(7).

(c) The possession of paraphernalia associated with a violation of subsection (a) of this section shall not constitute a violation of section 4 of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1103).

Sec. 102. Identification of offenders.

(a) A person who is stopped by a police officer for violating section 101 shall, upon request, inform the officer of his or her name and address for the purpose of including that information on a notice of violation; provided, that no person shall be required to possess or display any documentary proof of his or her name or address in order to comply with the requirements of this section.

(b) A person who refuses to provide his or her name and address, or who knowingly provides an incorrect name or address, to a police officer in violation of subsection (a) of this section shall, upon conviction, be fined \$100.

Sec. 103. Penalties.

(a) A person 18 years of age or older who commits a civil violation of section 101 shall be subject to a civil fine of \$25 and seizure of any marijuana and paraphernalia visible to the police officer at the time of the civil violation.

(b)(1) A person under the age of 18 years who commits a civil violation of section 101 shall be subject to a civil fine of \$25 and seizure of any marijuana and paraphernalia visible to the police officer at the time of the civil violation.

(2) The Office of Administrative Hearings shall mail a copy of the notice of violation to the parent or guardian of the person to whom the notice of violation is issued at the address provided by the person at the time the citation is issued pursuant to section 102.

(3) For the purposes of this subsection, the term "civil violation" shall have the same meaning as a civil Notice of Violation for the purposes of D.C. Official Code § 16-2333(a)(1A).

(c) Except as provided in this section, the District shall not request or impose any other form of penalty, sanction, forfeiture, or disqualification for violations of section 101; provided, that this subsection does not apply to District government employers if drug use is specifically prohibited as a condition of employment, nor shall this subsection apply to the Firearms Control Regulation Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code §7-2501.01 *et seq.*), and An Act To control the possession, sale, transfer, and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 650; D.C. Official Code § 22-4501 *et seq.*).

#### Sec. 104. Substance Abuse Prevention and Treatment Fund.

(a) There is established as a special fund the Substance Abuse Prevention and Treatment Fund ("Fund"), which shall be administered by the Department of Behavioral Health in accordance with subsections (c) and (d) of this section.

(b) The Fund shall consist of revenue from the payment of fines collected pursuant to section 103.

(c) The Fund shall be used for substance abuse prevention and treatment efforts.

(d)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

## TITLE II. CIVIL VIOLATIONS.

### Sec. 201. Adjudication.

Civil violations of section 101 shall be adjudicated by the Office of Administrative Hearings in accordance with this title.

### Sec. 202. Answer to a notice of violation.

(a) A person shall answer a notice of violation within 14 calendar days of the date the notice of violation was issued.

(b)(1) To answer a notice of violation, a person issued a notice may:

(A) Admit the violation;

(B) Admit the violation, but with an explanation; or

(C) Deny the violation.

(2) No response other than those listed in paragraph (1) of this subsection shall be regarded as an answer.

(c) A person admitting a violation shall, at the time the person submits an answer, pay the applicable civil fine in person or by mail.

(d) A person denying the violation shall receive from the Office of Administrative Hearings within 30 days of the office's receipt of the answer a notice with information about a hearing date.

(e) If a person to whom a notice of violation has been issued fails to respond to the notice within 14 calendar days of the date the notice was issued, the person shall be found liable for the civil violation and in default and shall be assessed both the civil fine for the violation and an additional penalty equal to the amount of that civil fine.

#### Sec. 203. Hearing.

(a) A hearing for judging a violation of section 101 shall be held before an administrative law judge and the hearing shall be conducted accordance with Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

(b)(1) After due consideration of the evidence and arguments made at the hearing, the administrative law judge shall determine whether the violation has been established by a preponderance of evidence.

(2) Where a determination is made that a violation is not established, an order dismissing the violation shall be entered.

(3) Where a determination is made that the violation has been established, an appropriate order shall be entered in the records of the hearing and the administrative law judge shall order the respondent to pay the civil fine set forth in section 103.

(c) An order rendered pursuant to a determination that a violation has been established, or pursuant to the receipt of an answer admitting the violation, shall be a civil order.

(d) A person who has answered a notice of violation, but fails, without good cause, to appear at the scheduled hearing shall be found liable for the violation and in default and shall be assessed both the civil fine for the violation and an additional penalty equal to the amount of that civil fine.

(e) For the purposes of this section, the term "evidence" includes the notice of violation, a statement from a law enforcement officer on the weight of the seized marijuana, confirmation that the substance seized has tested positive as marijuana, and any records or notes made by the law enforcement officer when the marijuana was seized; provided, that the seized marijuana shall not be required to be presented at the hearing as evidence and may be destroyed as contraband by the law enforcement agency that seized it.

TITLE III. CONSUMPTION OF MARIJUANA IN PUBLIC SPACE; IMPAIRMENT

Sec. 301. Consumption of marijuana in public space prohibited; impairment prohibited.

(a) Notwithstanding any other District law, it is unlawful for any person to smoke or otherwise consume marijuana in or upon a public space, or in or upon any of the following places:

- (1) A street, alley, park, sidewalk, or parking area;
- (2) A vehicle in or upon any street, alley, park, or parking area; or
- (3) Any place to which the public is invited.

(b) No person, whether in or on public or someone else's private property, shall be impaired due to smoking or otherwise consuming marijuana and endanger the safety of himself, herself, or any other person or property.

(c) Any person violating the provisions of subsection (a) or (b) of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or imprisoned for not more than 60 days.

(d) The Attorney General for the District of Columbia, or his or her assistants, shall prosecute violations of this section, in the name of the District of Columbia.

(e) For the purposes of this section, the term "smoke" means to inhale, ingest, or otherwise introduce marijuana into the human body, or to hold or carry a lighted roll of paper or other lighted smoking equipment filled with marijuana.

TITLE IV. CONFORMING AMENDMENTS.

Sec. 401. Section 6 of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03), is amended by adding a new subsection (b-7) to read as follows:

"(b-7) In addition to those adjudicated cases listed in subsections (a), (b), (b-1), (b-2), (b-3), (b-4), (b-5), and (b-6) of this section, this act shall apply to all adjudications involving the imposition of a civil fine for violations of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409).".

Sec. 402. Section 501 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.01), is amended as follows:

(a) Designate the existing text as subsection (a).

(b) A new subsection (b) is added to read as follows:

"(b) Notwithstanding any other provision of this title, no person shall be rendered ineligible for public assistance by reason of a civil violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409).

Sec. 403. Section 23-1321(c)(1)(B)(ix) of the District of Columbia Official Code is amended to read as follows:

“(ix) Refrain from excessive use of alcohol or marijuana, or any use of a narcotic drug or other controlled substance without a prescription by a licensed medical practitioner; provided, that a positive test for use of marijuana or a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409), shall not be considered a violation of the conditions of pretrial release, unless the judicial officer expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition of pretrial release; the terms "narcotic drug" and "controlled substance" shall have the same meaning as in § 48-901.02;”.

Sec. 404. Section 4 of An Act For the establishment of a probation system for the District of Columbia, approved June 25, 1910 (36 Stat. 865; D.C. Official Code § 24-304), is amended as follows:

(a) Subsection (b) is amended by striking the phrase “If a person violates” and inserting the phrase “Except as provided in subsection (c) of this section, if a person violates” in its place.

(b) A new subsection (c) is added to read as follows:

“(c) A positive test for use of marijuana, or a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409), shall not be considered a violation of a condition of probation unless the judicial officer expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition of probation.”.

Sec. 405. Section 4(a) of the Youth Rehabilitation Amendment Act of 1985, effective December 7, 1985 (D.C. Law 6-69; D.C. Official Code § 24-903(a)), is amended by adding a new paragraph (2A) to read as follows:

“(2A) A positive test for use of marijuana, or a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409), shall not be considered a violation of an order of probation unless the judicial officer expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition of probation.”.

Sec. 406. Section 25-1001(d) of the District of Columbia Official Code is amended by striking the phrase “90 days” and inserting the phrase “60 days” in its place.

Sec. 407. An Act To regulate the manufacturing, dispensing, selling, and possession of narcotic drugs in the District of Columbia, approved June 20, 1938 (52 Stat. 785; D.C. Official Code § 48-921.01 *et seq.*), is amended as follows:

(a) Section 14 (D.C. Official Code § 48-921.02) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “A search warrant” and inserting the phrase “Except as provided in subsection (a-1) of this section, a search warrant” in its place.

(2) A new subsection (a-1) is added to read as follows:

“(a-1) A search warrant shall not be issued if the sole basis for its issuance would be the possession or transfer without remuneration of marijuana weighing one ounce or less.”.

(b) A new section 14a is added to read as follows:

“ARTICULABLE SUSPICION

“Sec. 14a. (a) Except as provided in subsection (b) of this section, none of the following shall, individually or in combination with each other, constitute reasonable articulable suspicion of a crime:

“(1) The odor of marijuana or of burnt marijuana;

“(2) The possession of or the suspicion of possession of marijuana without evidence of quantity in excess of 1 ounce;

“(3) The possession of multiple containers of marijuana without evidence of quantity in excess of 1 ounce; or

“(4) The possession of marijuana in proximity to any amount of cash or currency without evidence of marijuana quantity in excess of one ounce.”.

“(b) Subsection (a) of this section shall not apply when a law enforcement officer is investigating whether a person is operating or in physical control of a vehicle or watercraft while intoxicated, under the influence of, or impaired by alcohol or a drug or any combination thereof in violation of the Anti-Drunk Driving Act of 1982, effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-2206.01 *et seq.*).”.

Sec. 408. Section 401 of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-904.01), is amended as follows:

(a) Subsection (a) is amended by striking the phrase “Except as authorized by this act or the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360)” and inserting the phrase “Except as authorized by this act or the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), and provided in section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409)” in its place.

(b) Subsection (d)(1) is amended by striking the phrase “except as otherwise authorized by this act or the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360)” and inserting the phrase “except as otherwise authorized by this act or the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), and provided in section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409)” in its place.

Sec. 409. Section 4 of the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1103), is amended as follows:

(a) Subsection (a) is amended by striking the phrase “Except as authorized by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360)” and inserting the phrase “Except as authorized by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*) and provided in section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409)” in its place.

(b) Subsection (b) is amended by striking the phrase “Except as authorized by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360)” and inserting the phrase “Except as authorized by the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective February 25, 2010 (D.C. Law 13-315; D.C. Official Code § 7-1671.01 *et seq.*), and provided in section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409)” in its place.

Sec. 410. Section 13a(a) of the District of Columbia Traffic Act, 1925, effective March 16, 1989 (D.C. Law 7-222; D.C. Official Code § 50-1403.02(a)), is amended by adding a new sentence at the end to read as follows: “For the purposes of this section, notwithstanding any other District law, a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409), shall not constitute a drug offense.”.

Sec. 411. The Department of Youth Rehabilitation Services Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-335; D.C. Official Code § 2-1515.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 2-1515.01) is amended by adding a new paragraph (2A) to read as follows:

“(2A) “Community placement agreement” means an agreement between the youth and the Department of Youth Rehabilitation Services that the youth and his or her guardian will agree to certain rules in exchange for being released to the community.”.

(b) Section 105 (D.C. Official Code § 2-1515.05) is amended by adding a new subsection (h-1) to read as follows:

“(h-1) The Department shall not use a positive test for use of marijuana, or a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409), as the basis for a change of placement, a change in treatment, or any sanction unless the Department expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition in the community placement agreement or by otherwise providing written notice to the child. A prohibition on the use or possession of marijuana shall be based upon an individual evaluation conducted pursuant to section 104(7).”.

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Sec. 412. Section 16-2327 of the District of Columbia Official Code is amended by adding a new subsection (e) to read as follows:

“(e) A positive test for use of marijuana, or a violation of section 101 of the Marijuana Possession Decriminalization Amendment Act of 2014, passed on 2<sup>nd</sup> reading on March 4, 2014 (Enrolled version of Bill 20-409), shall not be considered a violation of an order of probation unless the Division expressly prohibits the use or possession of marijuana, as opposed to controlled substances generally, as a condition of probation.”.

TITLE V. RULES, EFFECTIVE DATE, AND FISCAL IMPACT STATEMENT.

Sec. 501. Rules.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act.

Sec. 502. Fiscal impact statement.

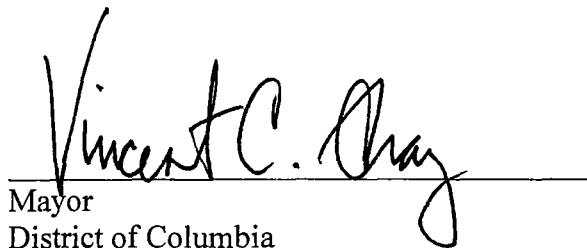
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 503. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of Congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED  
March 31, 2014



# SPECIAL ORDER



DISTRICT OF COLUMBIA

Title
<b>Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014 (Initiative 71)</b>
Number
<b>SO-15-07</b>
Effective Date
<b>February 26, 2015</b>
Replaces:
SO-14-04 (Marijuana Possession Decriminalization Amendment Act of 2014), Effective Date July 17, 2014
Related to:
GO-SPT-401.01 (Field Reporting System)

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## I. PURPOSE

The purpose of this special order is to inform Metropolitan Police Department (MPD) members of the implementation of the *Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014*, effective February 26, 2015 (D.C. Act 20-565), commonly referred to as Initiative 71, which amends the District's laws regarding drug enforcement, including the District of Columbia Uniform Controlled Substances Act (D.C. Official Code § 48-904.01 *et seq.*) and the Drug Paraphernalia Act of 1982 (D.C. Official Code § 7-1671.01 *et seq.*).

A chart summarizing the main enforcement provisions of the new law is included in this order as Attachment A.

## II. DEFINITIONS

1. MPD NOV Coordinator – A member who serves as the liaison to the District NOV Coordinators and the Office of Administrative Hearings (OAH). The MPD NOV Coordinator may be contacted at [mpdnov.coordinator@dc.gov](mailto:mpdnov.coordinator@dc.gov).

2. Smoking – To inhale, eat, drink, or otherwise introduce marijuana into the body, or to hold or carry a lighted roll of paper or other lighted smoking equipment filled with marijuana.
3. THC – Tetrahydrocannabinol, the chemical responsible for most of marijuana's psychological effects.
4. Transfer – To give marijuana to another person without payment of any kind (such as money, goods, or services).

### III. REGULATIONS

- A. The *Legalization of Possession of Minimal Amounts of Marijuana for Personal Use Initiative of 2014* provides that a person who is 21 years of age or older is not subject to any criminal or civil penalty if the person:
  1. Possesses or transports two ounces or less of marijuana;
  2. Transfers one ounce or less of marijuana to another person who is also 21 years of age or older;
  3. Possesses, grows, harvests, or processes, within the interior of a house or rental unit that is the person's principal residence, up to six cannabis plants, with three or fewer being mature, flowering plants;
  4. Possesses, within the person's principal residence, the marijuana produced by the cannabis plants; or
  5. Possesses or uses drug paraphernalia associated with possession of one ounce or less of marijuana (e.g., bongs, cigarette rolling papers, cigar wrappers, etc.).
- B. A person who is under 21 years of age is prohibited from possessing any amount of marijuana.
- C. The following activities are criminal offenses:
  1. Possession of more than two ounces of marijuana;
  2. Selling any amount of marijuana or giving any amount of marijuana to a person in exchange for money, goods, or services;
  3. Smoking or otherwise consuming marijuana in a public space or any of the following places:
    - a. A street, alley, park, sidewalk, or parking area;

- b. A vehicle in or upon any street, alley, park, or parking area; or
    - c. Any place to which the public is invited; and
  - 4. Operating or being in physical control of a vehicle or watercraft while intoxicated, under the influence of, or impaired by alcohol or a drug.
- D. Reasonable articulable suspicion:
  - 1. None of the following shall, individually or in combination with each other, constitute reasonable articulable suspicion of a crime:
    - a. The odor of marijuana;
    - b. The possession of, or the suspicion of possession of, marijuana without evidence of quantity in excess of two ounces;
    - c. The possession of multiple containers of marijuana without evidence of quantity in excess of two ounces; or
    - d. The possession of marijuana without evidence of quantity in excess of two ounces in proximity to any amount of cash or currency.
  - 2. However, Part III.D.1 **shall not** apply when a member is investigating whether a person is operating or in physical control of a vehicle or watercraft while intoxicated, under the influence of, or impaired by alcohol or a drug.
  - 3. A member **shall not** request or apply for a search warrant if the sole basis for its issuance would be the possession or transfer of marijuana weighing two ounces or less.
- E. Members **shall not** arrest persons on public space or someone else's private property for being impaired by marijuana.
- F. Members shall refer to SO-13-08 (Medical Marijuana) for guidance on handling incidents involving medical marijuana.
- G. Nothing contained in this order is intended to prevent or discourage members from making arrests for possession of more than two ounces of marijuana, the sale of any amount of marijuana, or the distribution of more than one ounce of marijuana.

#### IV. PROCEDURES

##### A. Issuance of a Notice of Violation (NOV) for Marijuana Possession

Members shall no longer issue an NOV for marijuana possession, except as required by Part IV.D of this order. Any NOV issued as required by Part IV.D shall not carry any monetary fine or criminal penalty.

##### B. Impairment

When conducting a traffic stop involving an impaired person who is suspected of operating a vehicle while under the influence of marijuana, members shall:

1. Handle the incident in accordance with GO-PCA-502.02 [Handling Cases Involving Persons Suspected of "Driving While Intoxicated" and/or "Driving While Under the Influence" (DUI and/or DWI)].
2. If an arrest is made, process any recovered marijuana as evidence.

##### C. Arrests for Public Consumption of Marijuana

1. Members arresting violators for public consumption of marijuana shall complete a field report in the records management system (RMS) for "Public Consumption of Marijuana."
2. If an arrest is made, members shall process any recovered marijuana as evidence.
3. Members may use a PD Form 61D (Violation Citation) to make a non-custodial arrest for "Public Consumption of Marijuana." Members shall be guided by SOP-05-02 [PD Form 61D (Violation Citation)] in determining whether the specific circumstances of an arrest allow for use of the PD Form 61D or if they must instead make a custodial arrest.
4. When an offender is arrested for this offense, either through a custodial arrest or by issuance of a PD Form 61D, he or she may be eligible for citation release or elect to forfeit.
  - a. Members shall process the arrestee in accordance with existing Department procedures.
  - b. The collateral amount for an elect to forfeit is \$25.00.

D. Possession of Two Ounces or Less of Marijuana by Persons Appearing to Be Under 21 Years of Age

1. Members who witness a person appearing to be, or for whom they have reasonable articulable suspicion is, under the age of 21 and in possession of two ounces or less of marijuana – which can include any marijuana-infused edible goods (e.g., cookies, brownies, etc.) – shall:
  - a. Ask the person his or her date of birth to determine whether he or she is at least 21 years of age. The member **shall not** demand the person provide identification, but the person may show his or her identification to the member if the person so chooses.
    - (1) If the person demonstrates he or she is at least 21 years of age – including, but not limited to, providing government-issued identification – the member shall take no further action.
2. Members who seize marijuana or marijuana-infused edible goods from a person appearing to be under 21 years old shall:
  - a. Conduct or request a field test to confirm the product contains THC;
  - b. Bring the seized marijuana to the District station and make the appropriate entry on the District's property book, including the violator's name and address; and
  - c. **For marijuana seized from a person who is confirmed to be under 21 years of age or who did not prove their claim to be 21 years of age or older:**
    - (1) Bring the seized marijuana to the District station and make the appropriate entry on the property book, including the violator's name and address;
    - (2) Complete a PD Form 81 (Property Record); and
    - (3) Place the marijuana and DEA Form 7 (Report of Drug Property Collected, Purchased or Seized) in a heat-sealed PD Form 95 (Narcotic Evidence Bag) in the drug collection box for destruction as contraband.
  - d. **For marijuana seized from a person who claimed to be 21 years of age or older but did not provide**

**identification:**

- (1) Issue an NOV (Form OAH-1) (Attachment B) to the violator; **no monetary fine shall be issued.** The issuing member shall:
  - (a) Check the "Possession of Marijuana" violation box on the NOV;
  - (b) Check the box labeled "D.C. Code 48-1201" in the section titled "DC Code/DCMR Reference";
  - (c) Write "WARNING" on the blank space in the section titled "Other Violation";
  - (d) List on the back of Copy C of the NOV the results of the field test and the name and CAD number of the member who conducted the test; and
  - (e) Provide Copy B of the NOV to the violator and inform the person that he or she can:
    - i. Visit the station in the District where the marijuana was seized beginning 24 hours after the date of the seizure, but no later than 21 calendar days after the date of the seizure, and bring Copy B of the NOV;
    - ii. Provide proof of age; and
    - iii. Receive the seized marijuana.
- (2) Once the member returns to the District station, the member shall:
  - (a) Make the appropriate entry on the District's property book, including the violator's name and address;
  - (b) Complete a PD Form 81 (Property Record);
  - (c) "Place Copy A of the NOV, the DEA Form 7 (Report of Drug Property Collected, Purchased or Seized), and the marijuana in a heat-sealed PD Form 95 (Narcotic Evidence Bag), ensuring that the

NOV is visible; and

- (d) Place it in the appropriate location in the District station for property retained for safekeeping, where the Property Clerk shall treat it as general property.

3. Members shall retain:

- a. Copy C of the NOV; and
- b. Any notes related to the incident.

4. Members shall no longer submit any marijuana possession NOVs to the MPD NOV Coordinator, but they may contact the MPD NOV Coordinator with any questions on properly filling out the NOV.

E. Procedures for Returning Seized Marijuana to Persons Over the Age of 21

1. A person whose marijuana or marijuana-infused edible goods was seized pursuant to Part IV.D. may seek the return of their property by visiting the station in the District where the marijuana was seized no sooner than 24 hours after the seizure and providing the designated District station member with:

- a. Copy B of the NOV issued by the member pursuant to Part IV.D.2.d.1; and
- b. A form of government-issued identification showing the person's date of birth, such as a driver's license, birth certificate, or passport.

2. The designated District station member shall:

- a. Review the documents provided by the person whose marijuana was seized;
- b. Make a determination that the person is the same person whose name is listed on Copy A of the NOV;
- c. Make a determination that the person is at least 21 years of age;
- d. Return the seized marijuana to the person; and
- e. Make the appropriate notation in the entry for the seized marijuana on the District's property book.

3. If the seized marijuana is not claimed by the 30<sup>th</sup> calendar day after the date listed on Copy A of the NOV, the designated District station member shall:
    - a. Place the marijuana in the drug collection box for destruction as contraband; and
    - b. Note in the entry for the marijuana on the District's property book that the property was destroyed and the date.
  4. Each District shall maintain records detailing the outcome of all marijuana seized under Part IV.D.2 and delivered to it, including the number of seizures returned to their lawful owner(s) and the number of seizures destroyed as contraband.
- F. Seizure of Marijuana for Persons Over the Age of 21 When Arrested for a Crime
1. When a member arrests a person who is 21 years of age or older for any type of prohibited activity and that person has two ounces or less of marijuana or marijuana-infused edible goods in their possession, the member shall:
    - a. Place the marijuana in a heat-sealed PD Form 95 (Narcotic Evidence Bag); and
    - b. Treat it as prisoner's property in accordance with GO-SPT-601.01 (Recording, Handling, and Disposition of Property Coming into the Custody of the Department).

## **V. ROLES AND RESPONSIBILITIES**

- A. District Commanders shall be responsible for:
1. Ensuring that any marijuana seized for safekeeping from persons 21 years of age or over is returned to the owner and records maintained in accordance with Part IV.E.2-4.

## **VI. CROSS REFERENCES**

- A. GO-SPT-601.01 (Recording, Handling, and Disposition of Property Coming into the Custody of the Department)
- B. GO-PCA-502.02 [Handling Cases Involving Persons Suspected of "Driving While Intoxicated" and/or "Driving While Under the Influence" (DUI and/or DWI)]
- C. SO-13-08 (Medical Marijuana)



## VII. ATTACHMENTS

1. Attachment A: Summary of Enforcement Provisions of Initiative 71
2. Attachment B: Office of Administrative Hearings Form-1

A handwritten signature in black ink, reading "Cathy L. Lanier". The signature is written in a cursive, flowing style.

Cathy L. Lanier  
Chief of Police

CLL:KDO:HG

## Summary of Enforcement Provisions of Initiative 71

Amount		Under 21*	21 & Over
Possession	2 oz. or less	Prohibited. Seize marijuana and may issue a ticket under Section IV.D if person claims to be 21 but has no ID.	Legal
	More than 2 oz.	Prohibited, criminal. Seize marijuana and charge under existing law.	
Transfer	1 oz. or less	Prohibited. Seize marijuana and may issue a ticket under Section IV.D if person claims to be 21 but has no ID.	Legal
	More than 1 oz.	Prohibited, criminal. Seize marijuana and charge under existing law.	
Distribution	(1) Any plants; (2) any amount not covered above; (3) distribution for gain (whether money, goods, or services); or (4) to anyone under 21 years of age	Prohibited, criminal. Seize marijuana and charge under existing law.	
Cultivation	Up to 6 plants, with 3 or fewer being mature, flowering plants.  No more than 12 plants/6 mature in a home with more than one person 21 years of age or older.	Prohibited, criminal. Seize marijuana & charge under existing law. (This would likely only apply if the owner or principal resident is under 21.)	Legal
Paraphernalia	Associated with marijuana	Legal	
	Associated with any other type of narcotic	Prohibited, criminal. Seize paraphernalia and charge under existing law.	

\* If the person is a medical marijuana patient, then Special Order 13-08 (Medical Marijuana) applies. As specified in the order, with appropriate documentation, a person may be under 21 and possess up to 2 ounces of marijuana.



Government of the District of Columbia  
**METROPOLITAN POLICE DEPARTMENT**

**Civil Infraction  
Notice of Violation**

OFFICE OF ADMINISTRATIVE HEARINGS FORM 1  
CIVIL INFRACTION NOV  
JULY 2014

No. Series \_\_\_\_\_

Officer \_\_\_\_\_

Dept. and Element \_\_\_\_\_

**ATTENTION**

Tickets in this book are for civil infractions adjudicated by the Office of Administrative Hearings (OAH) only. They are not to be used for criminal infractions under the jurisdiction of the D.C. Superior Court, nor are they to be used to enforce Traffic Violations.

**DISTRIBUTION**

**Copy A** OAH Control Copy to Station Clerk  
**Copy B** Violator's Copy  
**Copy C** Officer's Copy

**OAH NOTICE OF VIOLATION TABLE**

The following are the proper references to the District of Columbia Official Code or District of Columbia Municipal Regulations that can be used in conjunction with the Notice of Violation in this ticket book.

DC Code/ DCMR Reference	Violation	Collateral
21 DCMR §700.4	Littering	\$75.00
D.C. Code 48-1201	Possession of Marijuana	\$25.00

Government of the District of Columbia  
METROPOLITAN POLICE DEPARTMENT

Notice of Violation

00001

Violator's Name

FIRST MIDDLE LAST

DATE OF BIRTH

Street Address

NUMBER STREET APT./SUITE

CITY STATE ZIP CODE

Violation Details

DATE / / TIME ☐ AM ☐ PM

LOCATION OF INCIDENT DISTRICT

☐ LITTERING/21 DCMR §700.4 (\$75) ☐ POSS. OF MARIJUANA/DC CODE §48-1201 (\$25)

☐ OTHER VIOLATION

DC CODE/DCMR REFERENCE FINE

PHOTOS TAKEN? ☐ YES ☐ NO NCIC CHECK? ☐ YES ☐ NO

SWORN OFFICER'S TESTIMONY

I personally observed and/or determined that the Violator committed the violation charged above. I certify that I served this Notice on the Violator by personal service.

I further certify under penalty of perjury that (CHECK ONE):

- ☐ the Violator is not in the military service of the United States  
☐ the Violator is in the military service of the United States  
☐ I am unable to determine whether the Violator is in the military service of the United States.

OFFICER'S SIGNATURE FULL NAME (PRINTED)

ELEMENT CAD # BADGE NO. RANK DATE

VIOLATOR'S ACKNOWLEDGMENT

I hereby acknowledge receipt of this Notice of Violation. Acknowledgment of receipt IS NOT an admission of liability.

VIOLATOR'S SIGNATURE DATE

OAH Form 1 Civil Notice of Violation / JULY 2014

INCIDENT DETAILS

Was there a vehicle involved? ☐ YES ☐ NO

If Yes, describe fully:

MAKE MODEL

YEAR TAG/STATE

COLOR VIN#

Is there physical evidence? ☐ YES ☐ NO

ELEMENT PROPERTY BOOK PAGE #

Notes

OFFICER'S SIGNATURE PRINT NAME

ELEMENT BADGE NO. CAD NO.

OAH Form 1 Civil Notice of Violation / JULY 2014

## Answering a Notice of Violation

You are charged with violating the District of Columbia regulation stated on the other side of this Notice. You **MUST** answer this Notice within 14 calendar days of the day you receive it. If you do not, you will be subject to an order finding you in default and assessing both the fine stated on the other side, and an additional penalty equal to the amount of that fine.

You must answer with a plea of **ADMIT**, **ADMIT WITH EXPLANATION**, or **DENY**. See the instructions below.

**1. To Admit and Pay the Fine.** If you wish to Admit liability and pay the fine, sign at the bottom and check the Admit box. Mail or bring this form, with a personal check, cashier's check, or money order for the amount of the fine payable to "DC Treasurer" to the address below. **We cannot accept cash payments.** Write the notice of violation number on your check or money order.

**2. To Admit with Explanation and Request a Hearing by Mail.** If you wish to Admit liability, but want to submit an explanation that you would like an Administrative Law Judge to consider in deciding whether the fine should be reduced or suspended, sign at the bottom and check the Admit with Explanation box. Mail or bring this form, along with your written explanation and any supporting documents, photographs or other materials, to the address below.

**3. To Deny and Request an In-Person Hearing.** If you wish to Deny liability for the violation, sign at the bottom and check the Deny box. Mail or bring this form to the address below. You will receive a notice from the Office of Administrative Hearings with information about your hearing date. The hearing will be conducted by an independent Administrative Law Judge.

MAILING ADDRESS/OFFICE LOCATION    HOURS OF OPERATION  
Office of Administrative Hearings    9 AM-5 PM Monday through Friday  
441 4th Street, NW  
Washington, DC 20001

**OAH INFORMATION LINE: 202-442-9094**

### ANSWER

☐ Admit                      ☐ Admit with Explanation                      ☐ Deny

SIGNATURE \_\_\_\_\_

PRINT NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE NUMBER \_\_\_\_\_

OAH Form 1 Civil Notice of Violation / JULY 2014