

1 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
2 OF ORLANDO, FLORIDA, RELATING TO THE
3 POSSESSION OF CANNABIS AND CANNABIS
4 PARAPHERNALIA; CREATING SECTION 43.95,
5 ORLANDO CITY CODE, MAKING POSSESSION OF 20
6 GRAMS OR LESS OF CANNABIS A CITY CODE
7 VIOLATION; FURTHER MAKING POSSESSION OF
8 CERTAIN DRUG PARAPHERNALIA A CITY CODE
9 VIOLATION; PROVIDING FOR CIVIL PENALTIES;
10 PROVIDING LEGISLATIVE FINDINGS, AND FOR
11 SEVERABILITY, CODIFICATION, CORRECTION OF
12 SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

13
14 **WHEREAS**, section 893.13(6)(b), Florida Statutes, makes it a misdemeanor of
15 the first degree to be in actual or constructive possession of 20 grams or less of
16 cannabis (marijuana); and

17
18 **WHEREAS**, section 893.147(1), Florida Statutes, makes it a misdemeanor of the
19 first degree to possess with the intent to use drug paraphernalia as drug paraphernalia is
20 defined at section 893.145, Florida Statutes; and

21
22 **WHEREAS**, the City Council of the City of Orlando, Florida (the "Orlando City
23 Council"), hereby finds that existing criminal penalties for the possession of small
24 amounts of marijuana, and for the possession of drug paraphernalia used to administer
25 marijuana, are often disproportionate to the severity of the offense; and

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27 **WHEREAS**, the Orlando City Council hereby finds that civil penalties and
28 procedures may be more commensurate with any social harm caused by the possession
29 of small amounts of marijuana or the possession of marijuana paraphernalia; and

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31 **WHEREAS**, the Orlando City Council hereby finds and declares that this
32 ordinance is in the best interest of the public health, safety, and welfare; and

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34 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**
35 **OF ORLANDO, FLORIDA, AS FOLLOWS:**

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37 **SECTION 1. SEC. 43.95, CREATED.** Section 43.95, Code of the City of Orlando,
38 Florida, is hereby created to read as follows:

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40 **Sec. 43.95. – Possession of cannabis or cannabis paraphernalia.**

41
42 (1) As used in this section, the term:

43
44 a. *Cannabis* means all parts of any plant of the genus *Cannabis*, whether
45 growing or not; the seeds thereof; the resin extracted from any part of the
46 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 by section
 381.986, Florida Statutes.

b. 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.

(2) It is unlawful and a violation of this Code for any person to possess
 cannabis paraphernalia or 20 grams or less of cannabis.

(3) A person found in violation of possession of cannabis under subsection
 (2) may not also be found in violation of possession of cannabis paraphernalia under
 subsection (2) arising out of the same incident.

(4) Any person violating subsection (2) of this section may be issued a code
 citation pursuant to Article II, Chapter 5, of this Code, and shall, upon conviction, be
 punished as provided in Article II, Chapter 5, of this Code, except that first and second
 time offenders of this section may, in lieu of paying the civil penalty as provided by
 section 5.19 of this Code, participate in and successfully complete the substance abuse
 diversionary program created by subsection (5) of this section.

(5) *Substance Abuse Diversionary Program.* There is hereby created a
 substance abuse diversionary program as an alternative to paying the reduced civil
 penalty for violations of subsection (2) of this section. The purpose of this diversionary
 program is to provide the opportunity for high-quality substance abuse education or to
 require meaningful community service to the City of Orlando. Persons cited for violating
 subsection (2) of this section may, in lieu of paying the reduced civil penalty as provided
 by section 5.19 of this Code, participate in and successfully complete one of the
 following two subprograms:

a. Substance Abuse Education. At least 8 hours of substance abuse
 education provided by a city-approved non-profit organization.

b. Community Service. At least 8 hours of community service performed
 for a city-approved non-profit organization.

The terms and conditions of the Substance Abuse Diversionary Program shall be
 established by the city prosecutor.

SECTION 2. SEC. 5.19, AMENDED. Section 5.19, Code of the City of Orlando,
 Florida, is hereby amended as follows:

Sec. 5.19. - Classes of Violations and Reduced Civil Penalties.

(1) Violations of city codes and ordinances, and the applicable reduced civil penalties, shall be as follows:

| | Reduced Civil Penalty | | |
|---------------------------|-----------------------|----------------|------------------------------|
| Violation Classifications | First Offense | Second Offense | Third and Subsequent Offense |
| Class I | \$ 50.00 | \$100.00 | Court Hearing Mandatory |
| Class II | 100.00 | 200.00 | " |
| Class III | 150.00 | 300.00 | " |
| Class IV | 200.00 | 400.00 | " |
| Class V | 500.00 | 500.00 | " |

(2) Violations of City codes and ordinances which constitute civil infractions for which citations may be issued are as follows:

| Code/Ordinance Chapter or Section | Description | Class |
|--|---|-----------|
| **** | **** | **** |
| Sec. 43.89 | Gasoline station sign requirements | IV |
| <u>Sec. 43.95</u> | <u>Possession of cannabis or cannabis paraphernalia</u> | <u>II</u> |
| CH. 45, SOLICITOR'S PERMITS (COMMERCIAL) | | |
| Sec. 45.01 | Permit required | IV |
| **** | **** | **** |

SECTION 3. FINE REVENUE. Upon receipt of revenue from the payment of penalties imposed pursuant to section 43.95, Orlando City Code, the chief financial officer of the city shall deposit said revenue into a segregated fund. Proceeds from the fund shall be used to support the Substance Abuse Diversionary Program created by section 1 of this ordinance.

SECTION 4. CODIFICATION. The city clerk and the city attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by this ordinance

and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 5. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 6. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 7. EFFECTIVE DATE. This ordinance takes effect October 1, 2016.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2016.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, the _____ day of _____, 2016.

DONE, THE SECOND READING, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2016.

BY THE MAYOR OF THE CITY OF
ORLANDO, FLORIDA:

Mayor

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

City Clerk

Print Name

THIS ORDINANCE DRAFTED BY AND
APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE

ORDINANCE NO. 2016-36

CITY OF ORLANDO, FLORIDA:

City Attorney

Print Name

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