

ORDINANCE NO. 2016-57

An Ordinance of the Board of County Commissioners of Osceola County, Florida, Amending the Osceola County Code of Ordinances by Creating Chapter 14, Article I, Section 14-11, "Possession of Cannabis and Cannabis Paraphernalia"; Providing for Applicability within the Entire Unincorporated and Incorporated Territory of Osceola County; Providing for Conflict; Providing for Severability; and Providing for an Effective Date.

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

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

WHEREAS, the Board of County Commissioners of Osceola County, Florida (the County), hereby finds that existing criminal penalties for the possession of small amounts of marijuana, and for the possession of drug paraphernalia used to administer marijuana, are often disproportionate to the severity of the offense; and

WHEREAS, the County hereby finds that civil penalties and procedures may be more commensurate with any social harm caused by the possession of small amounts of marijuana or the possession of marijuana paraphernalia; and

WHEREAS, the County hereby finds and declares that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OSCEOLA COUNTY, FLORIDA:

SECTION 1. Recitals.

The foregoing recitals are incorporated herein by reference.

SECTION 2. Creation.

Chapter 14, Article I, Section 14-11, Osceola County Code of Ordinances, is hereby created as follows:

Section 14-11. - Possession of Cannabis and Cannabis Paraphernalia.

(a) Definitions. For purposes of this section, the following definitions apply.

(1) Cannabis means all parts of any plant of the genus Cannabis, whether growing or not; 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.

(2) 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.

(b) It is unlawful and a violation of this section for any person to possess cannabis paraphernalia or 20 grams or less of cannabis. Such violation shall be punishable by a civil infraction, issued by and at the discretion of a law enforcement officer, pursuant to Chapter 7 of this Code.

(c) A person found in violation of possession of cannabis under this section may not also be found in violation of possession of cannabis paraphernalia under this section arising out of the same incident.

(d) The applicable fine for a violation of this section shall be \$100.

(e) Jurisdiction. This section shall be applicable within the incorporated and unincorporated areas of the county, except to the extent that a municipality has adopted or adopts its own ordinance in conflict with this section. To the extent that this section is applicable within a municipality, the county and the municipality shall have concurrent authority and jurisdiction to apply and enforce this section within the entirety of their jurisdictional boundaries.

SECTION 3. CONFLICT. Any ordinance, or part thereof, in conflict with this Ordinance, or any part hereof, is hereby repealed to the extent of such conflict.

SECTION 4. SEVERABILITY. If any portion of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this Ordinance. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

SECTION 5. EFFECTIVE DATE. A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten days after enactment. This ordinance shall take effect thirty (30) days after filing with the Florida Department of State.

DULY ENACTED this 20 day of June, 2016.

**BOARD OF COUNTY COMMISSIONERS
OF OSCEOLA COUNTY, FLORIDA**

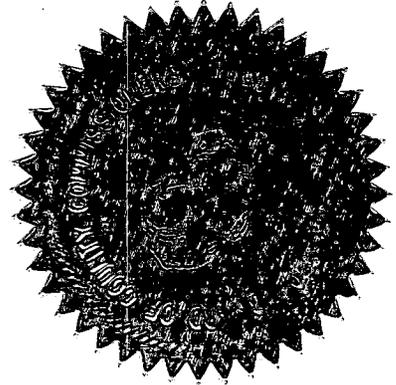
By: *Suzanne Jones*
Chairwoman/Vice Chairwoman

ATTEST:
OSCEOLA COUNTY CLERK OF THE BOARD

Paula Carpenter
Clerk/Deputy Clerk of the Board

As authorized for execution at the Board of
County Commissioners meeting of:

June 20 2016





FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

June 21, 2016

Ms. Paula J. Carpenter
Clerk of the Board
Osceola County
1 Courthouse Square, Suite 4400
Kissimmee, Florida 34741

Attention: Paula Carpenter

Dear Ms. Carpenter:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Osceola County Ordinance No. 2016-57, which was filed in this office on June 21, 2016.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb