

ORDINANCE NO. 16-652

AN ORDINANCE OF THE CITY OF PORT RICHEY, FLORIDA, CREATING SECTION 18-82, POSSESSION OF CANNABIS OR PARAPHERNALIA; MAKING POSSESSION OF TWENTY GRAMS OR LESS OF CANNABIS UNLAWFUL, MAKING POSSESSION OF DRUG PARAPHERNALIA AS DEFINED HEREIN UNLAWFUL, PROVIDING FOR CIVIL PENALTIES, SPECIFYING THE AMOUNT OF CIVIL FINE FOR VIOLATION, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statute Subsection 893.13(6)(b) provides that the possession of twenty (20) grams or less of cannabis (marijuana), intended only for consumption of the possessor, is a misdemeanor criminal offense; and

WHEREAS, Florida Statute Subsection 893.147(1) provides that the possession of drug paraphernalia as defined in Florida Statute Section 893.145 is a misdemeanor criminal offense; and

WHEREAS, the City Council of the City of Port Richey finds that particularly where the citizen's only known offense at the time of arrest is possession for personal use of a small amount of cannabis, or paraphernalia for administration thereof, criminal penalties and potentially life-long criminal record are disproportionate to the severity of the offense; and

WHEREAS, the City Council of the City of Port Richey finds that established civil penalties and procedures are more commensurate with the offense of possession of twenty (20) grams or less of cannabis or paraphernalia when that is the only chargeable offense.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT RICHEY, FLORIDA:

SECTION 1. The Code of the City of Port Richey Chapter 18, Offense, Section 18-82 is hereby created to read in its entirety as follows:

Sec. 18-82. - Possession of cannabis or paraphernalia.

(a)

Definitions.

(1)

Cannabis means all parts of any plant of the genus *Cannabis*, whether growing or not and the seeds thereof. The term does not include the resin or oil extracted from any part of the plant or "low-THC cannabis" as defined in F.S. § 381.986 if manufactured, possessed, sold, purchased, delivered, distributed, and dispensed in conformance with F.S. § 381.986.

(2)

Paraphernalia means any object used, intended for use, or designed for use, in ingesting, inhaling, smoking, or otherwise introducing cannabis into the human body.

- (b) Any person eighteen (18) years of age or older, who has never been charged and convicted previously under this subsection, who possesses twenty (20) grams or less of cannabis as defined herein except as otherwise authorized by law commits a violation of this subsection.
- (c) Any person eighteen (18) years of age or older, who has never been charged and convicted previously under this subsection, who possesses paraphernalia as defined herein except as otherwise authorized by law commits a violation of this subsection.
- (d) A person charged with possession of cannabis under subsection (b) may not be charged with possession of paraphernalia under subsection (c) arising out of the same incident.
- (e) Penalties and procedure.
 - (1) Violation of this section is deemed to be an irreparable or irreversible violation punishable by civil penalty as a Class I offense.

SECTION 3. Conflicts.

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements shall apply.

SECTION 4. Severability

The provisions of this ordinance are severable, and it is the intention of the City Council of the City of Port Richey, Florida to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the City Council that this ordinance would have been adopted had such unconstitutional provision not been included herein.

SECTION 5. Inclusion in Code.

It is the intention of the City Council that the provisions of this ordinance shall become and be made a part of Port Richey Code; and that the sections of this ordinance may be renumbered or re-

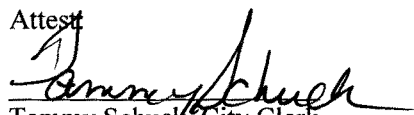
lettered and the word "Ordinance" may be changed to "Section", "Article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 6. Effective Date.


This Ordinance shall become effective upon passage at the second reading.

The foregoing Ordinance No. 16-652 was read and passed on its first reading in an open and regular meeting of the City Council of the City of Port Richey, Florida, on this 23 day of August, 2016.

Attest:

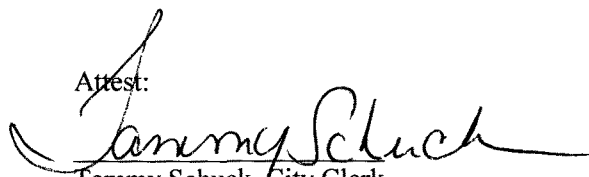

Tammy Schuck, City Clerk

CITY OF PORT RICHEY



Dale Massad, Mayor

The foregoing Ordinance No. 16-652 was read and passed on its second reading in an open and regular meeting of the City Council of the City of Port Richey, Florida, on this 15th day of Sept, 2016.

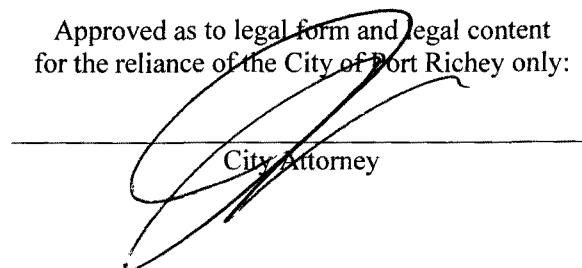
Attest:


Tammy Schuck, City Clerk

CITY OF PORT RICHEY


Dale Massad, Mayor

Approved as to legal form and legal content
for the reliance of the City of Port Richey only:


City Attorney