

AN ORDINANCE CREATING “FREEDOM ACT LUBBOCK” INCLUDING MEASURES TO REDUCE ENFORCEMENT OF LOW-LEVEL MARIJUANA OFFENSES

BE IT ORDAINED BY THE VOTERS OF THE CITY OF LUBBOCK:

Title I, Chapter 14, Article 14.08 of the City Code is hereby created, to be entitled “Freedom Act Lubbock,” and to read as follows:

- **14.08.001 Title**

This ordinance shall be known as Freedom Act Lubbock.

- **14.08.002 Purpose**

Pursuant to the home rule authority of the Texas Constitution, to promote the health, safety, and general welfare of the people of Lubbock, Texas, the voters of Lubbock hereby enact Freedom Act Lubbock, a policy to reform marijuana enforcement by city personnel, with the specific objectives of carefully allocating scarce city resources, reducing the risk of discriminatory enforcement practices, and focusing city resources on the highest priority public safety concerns.

- **14.08.003 Enforcement of Misdemeanor Marijuana Offenses**

Unless and until a binding act of a state or federal court requires otherwise, the Lubbock Police Department shall not make any arrest or issue any citation for Class A or Class B misdemeanor marijuana possession, except in the limited cases described by this ordinance.

- **14.08.004 Safe Harbor**

In the event of a binding act of a state or federal court, which would prevent the City of Lubbock’s fulfillment of § 14.08.003, the City’s policy shall be to make enforcement of Class A and Class B misdemeanor marijuana possession its lowest enforcement priority. In particular, the City shall update its annual budget, police department manual, and relevant policies and procedures to ensure that public safety resources are not wasted on misdemeanor marijuana enforcement, and are instead targeted at other programs that best promote the health, safety, and general welfare of the people of Lubbock.

- **14.08.005 Exceptions to Enforcement Policy**

This ordinance shall not limit enforcement of misdemeanor marijuana possession offenses if an offense is (a) revealed as part of a felony narcotics investigation that has been designated as “high priority” by a commander, assistant chief of police, or chief of police; (b) and/or revealed as part of the investigation of a violent felony. Lubbock police officers shall not issue any charge for misdemeanor possession of marijuana unless it meets one or more of these exceptions.

- **14.08.006 Non-Applicability of Enforcement Policy to Juvenile Residents**

This policy does not amend or alter any city policy, practice, or procedure concerning the enforcement of marijuana possession offenses against juvenile residents, including the City’s Teen Court program.

- **14.08.007 Handling of Evidence**

In any instance governed by this policy, if a Lubbock police officer has probable cause to believe that a substance is marijuana, the officer may seize the substance. If the officer seizes the substance, they must write a report explaining the grounds for seizure and release any detained person if possession of marijuana is the sole charge.

- **14.08.008 No Citations for Paraphernalia or Residue in Lieu of Possession Charge**

A Class C misdemeanor citation for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge.

- **14.08.009 Ban on Using City Resources for THC Concentration Testing**

No City funds or personnel shall be used to request, conduct, or obtain tetrahydrocannabinol (THC) testing of any cannabis-related substance to determine whether the substance meets the legal definition of marijuana under state or federal law, except (a) for purposes of toxicology testing to ensure public safety or (b) the investigation of a violent felony offense.

- **14.08.010 Ban on Using Odor of Marijuana or Hemp as Probable Cause for Search**

or Seizure

Lubbock police shall not consider the odor of marijuana or hemp to constitute probable cause for any search or seizure, except in the limited circumstances of a police investigation pursuant to § 14.08.005.

- **14.08.011 Training and Policy Updates**

The City Manager and Chief of Police shall ensure that (a) City policies and internal operating procedures are updated in accord with this ordinance and (b) Lubbock police officers receive adequate training concerning each of the provisions of this ordinance.

- **14.08.012 Officer Discipline**

Any violation of this ordinance may subject a Lubbock police officer to discipline as provided by the Texas Local Government Code or as provided by City policy.

- **14.08.013 Quarterly Reports**

The City Manager, in consultation with the Chief of Police and other relevant City personnel, shall prepare quarterly reports concerning the implementation of this ordinance, to be presented to the City Council at a public meeting subject to the Texas Open Meetings Act, and with the first report due no later than 120 days following the effective date of this ordinance. Each report shall include a summary of the City's implementation of this policy, and shall include specific information concerning enforcement of misdemeanor marijuana possession offenses, including total arrests made, total citations issued, estimated personnel hours used in conducting enforcement activities, and demographic information for each person charged with an offense, including age, gender, race, and ethnicity.

- **14.08.014 Severability**

In the event that any court finds any section of the Freedom Act Lubbock to be unlawful or unenforceable, that section shall be severed from this ordinance and the rest shall continue in force.