

Text of Charter Amendment

BE IT ORDAINED BY THE VOTERS OF THE CITY OF LOCKHART, TEXAS:

Article 12 of the Charter of the City of Lockhart, Texas is hereby created, to be titled "Lockhart Freedom Act" and to read as follows:

Article 12. - LOCKHART FREEDOM ACT

Sec. 12.01. - Title.

This article shall be known as the Lockhart Freedom Act.

Sec. 12.02. - Purpose.

Pursuant to the home rule authority of the Texas Constitution, to promote the health, safety, and general welfare of the people of Lockhart, Texas, the voters of Lockhart hereby enact the Lockhart Freedom Act, 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.

Sec. 12.03. - Enforcement of misdemeanor marijuana offenses.

Unless and until a binding act of a state or federal court requires otherwise, the Lockhart 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 policy.

Sec. 12.04. - Safe Harbor.

In the event of a binding act of a state or federal court, which would prevent the City of Lockhart's fulfillment of Section 12.03, 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 Lockhart.

Sec. 12.05. - Exceptions to enforcement policy.

This policy 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. Lockhart police officers shall not issue any charge for misdemeanor possession of marijuana unless it meets one or more of these exceptions.

Sec. 12.06. - Handling of evidence.

In any instance governed by this policy, if a Lockhart 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.

Sec. 12.07. - 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.

Sec. 12.08. - 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.

Sec. 12.09. - Ban on using odor of marijuana or hemp as probable cause for search or seizure

Lockhart 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 Section 12.05.

Sec. 12.10. - 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 policy and (b) Lockhart police officers receive adequate training concerning each of the provisions of this policy.

Sec. 12.11. - Officer discipline.

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

Sec. 12.12. - 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 policy, 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 policy. 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.

Sec. 12.13. - Severability.

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