

AN ORDINANCE TO ELIMINATE LOW-LEVEL MARIJUANA ENFORCEMENT

BE IT ORDAINED BY THE VOTERS OF THE CITY OF SAN MARCOS:

Part 1. Chapter 54, Article 4 of the City Code is hereby created, to be titled "Marijuana Enforcement" and to read as follows:

ARTICLE 4. - MARIJUANA ENFORCEMENT

Sec. 54.101. - Ending citations and arrests for misdemeanor possession of marijuana.

(a) San Marcos police officers shall not issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana offenses, except in the limited circumstances described in (b).

(b) The only circumstances in which San Marcos police officers are permitted to issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana are when such citations or arrests are part of (1) the investigation of a felony level narcotics case that has been designated as a high priority investigation by an San Marcos police commander, assistant chief of police, or chief of police; and/or (2) the investigation of a violent felony.

(c) In every instance other than those described in (b), if a San Marcos police officer has probable cause to believe that a substance is marijuana, an officer may seize the marijuana. If the officer seizes the marijuana, they must write a detailed report and release the individual if possession of marijuana is the sole charge.

(d) San Marcos police officers shall not issue any charge for possession of marijuana unless it meets one or both of the factors described in (b).

Section 54.102. - Citations for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge.

(a) 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.

Section 54.103. - Prohibition against using City funds or personnel to conduct THC concentration testing.

(a) 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 law, except in the limited circumstances of a police investigation pursuant to § 54.101(b).

(b) This prohibition shall not limit the ability of San Marcos police to conduct toxicology testing to ensure public safety, nor shall it limit THC testing for the purpose of any violent felony charge.

Section 54.104. - Prohibition against City police using the odor of marijuana or hemp as probable cause for search or seizure.

(a) San Marcos 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 § 54.101(b).

Section 54.105. - Training and policy updates; community involvement.

(a) The City Manager and Chief of Police shall ensure that San Marcos police officers receive adequate training concerning each of the provisions of this ordinance.

(b) The City Manager shall work with the San Marcos Police Chief and other relevant stakeholders identified in (c) to update City policies and internal operating procedures in accordance with this ordinance. Actions that may be necessary include, but are not limited to: updating the San Marcos Police Department General Manual; updating the training bulletin; training officers; and updating internal databases and systems.

(c) The City Manager shall arrange regular meetings to discuss the development of policies, procedures, and practices related to this ordinance, which shall include community stakeholders including: the Police Chief's Advisory Panel; other interested stakeholders and community organizations; individuals directly impacted by arrests within the City; immigrant communities; and communities of color. These meetings shall be open to public participation, have minutes and agendas publicly accessible, and have audio and video recordings uploaded to the City's website.

Section 54.106. - Discipline.

(a) Any violation of this chapter may subject a San Marcos police officer to discipline as provided by the Texas Local Government Code or as provided in City policy.

Section 54.107. - Reporting.

(a) Within three months of the adoption of this ordinance, and every three months thereafter, the City Manager or their designee shall present to the City Council, at a public meeting subject to the Texas Open Meetings Act, a report concerning the City's implementation of this ordinance.

