

RESOLUTION 2024-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, CANVASSING THE SPECIAL ELECTION HELD NOVEMBER 5, 2024, TO CONSIDER A PROPOSITION AND ASSOCIATED CHANGES TO THE CITY'S CHARTER.

WHEREAS, the City Council of the City of Lockhart, Texas, ordained that an election be held within the City of Lockhart on the 5th day of November 2024, for the purpose of considering the following proposition:

Shall the Charter of the City of Lockhart be amended to include Article XII, Section 12.01, Title: the "Lockhart Freedom Act"; Article XII, Section 12.02, Purpose: to reform marijuana enforcement by city personnel; Article XII, Section 12.03, Enforcement of misdemeanor marijuana offenses: limiting enforcement of said offenses; Article XII, Section 12.04, Safe Harbor: making enforcement of Class A and Class B misdemeanor marijuana possession its lowest enforcement priority; Article XII, Section 12.05, Exceptions to enforcement policy: setting forth exceptions to enforcement of the policy; Article XII, Section 12.06, Handling of evidence: related to seizure of evidence believed to be marijuana; Article XII, Section 12.07, No citations for paraphernalia or residue in lieu of possession charge: related to such citations; Article XII, Section 12.08, Ban on using City resources for THC concentration testing: prohibiting use of city funds for such testing; Article XII, Section 12.09, Ban on using odor of marijuana or hemp as probable cause for search or seizure: relating to said ban; Article XII, Section 12.10, Training and policy updates: requiring adequate training concerning each of the provisions of this policy; Article XII, Section 12.11, Officer discipline: permitting officer discipline for violations of said policy; Article XII, Section 12.12, Quarterly reports: requiring certain quarterly reports; and, Article XII, Section 12.13, Severability: permitting severability?

("Proposition A"): and

WHEREAS, the City Council of the City of Lockhart, Texas, desires to canvass returns and declare the results of an election held in the City of Lockhart on the 5th day of November 2024; and,

WHEREAS, it is hereby found and determined that said election was held in accordance with the authorizing proceedings, that notice of election was duly given in the form, manner, and the time required by law, and that said election was in all respects legally held and conducted in accordance with the laws of the State of Texas applicable thereto; and,

WHEREAS, the returns of the said election have been made to this governing body and said returns, duly and legally made, shows the following votes were cast as follows:

| | | ABSENTEE | EARLY VOTING | ELECTION DAY | TOTAL |
|--------------------|---------|-----------------|---------------------|---------------------|--------------|
| PROPOSITION | For | 128 | 2,867 | 724 | 3,719 |
| | Against | 75 | 1,418 | 254 | 1,747 |

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS THAT:

Section 1. All of the recitals contained in the preamble of this resolution are found to be true and are adopted as findings of fact by this governing body and as part of its judgment.

Section 2. It is further found and determined that the results of the election as canvassed and tabulated in the preamble hereof reflect the expressed desires of those persons voting at said election.

Section 3. A majority of the resident qualified electors voting at said election voted in favor of the Proposition.

Section 4. Because the Proposition passed, the referenced sections of the City Charter shall be amended to read as follows:

Article XII, Section 12.01, Title: "This article shall be known as the Lockhart Freedom Act."

Article XII, Section 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."

Article XII, Section 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."

Article XII, Section 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.”

Article XII, Section 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.”

Article XII, Section 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.”

Article XII, Section 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.”

Article XII, Section 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.”

Article XII, Section 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.”

Article XII, Section 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.”

Article XII, Section 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.”

Article XII, Section 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 issues, estimated personnel hours used in conducting enforcement activities, and demographic information for each person charged with an offense, including age, gender, race, and ethnicity.”

Article XII, Section 12.13, Severability: “In any 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.”

PASSED, APPROVED and ADOPTED this the 19th day of November 2024.



CITY OF LOCKHART

A handwritten signature in blue ink that reads "Lew White".

Lew White
Mayor

ATTEST:

A handwritten signature in blue ink that reads "Julie Bowermon".

Julie Bowermon
City Secretary

APPROVED AS TO FORM:

A handwritten signature in blue ink that reads "Brad Bullock".

Brad Bullock
City Attorney