

**ORDINANCE NO. 22-1198**

AN ORDINANCE ORDERING A SPECIAL ELECTION TO SUBMIT TO THE VOTERS THE PROPOSITION OF AN AMENDMENT TO THE DENTON CODE OF ORDINANCES, CREATING CHAPTER 21, ARTICLE V TO BE TITLED "MARIJUANA ENFORCEMENT" TO BE HELD ON NOVEMBER 8, 2022; PRESCRIBING THE TIME, MANNER, AND CONDUCT OF THE ELECTION IN ACCORDANCE WITH AN ELECTION AGREEMENT AND CONTRACT FOR ELECTION SERVICES WITH THE ELECTION ADMINISTRATOR OF DENTON COUNTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 4, 2022, an initiative petition was filed with the City Secretary seeking to initiate a new ordinance to eliminate enforcement of low-level marijuana offenses by creating Chapter 21, Article V of the Denton City Code to be titled "Marijuana Enforcement"; and

WHEREAS, in accordance with Section 4.04 of the City Charter, the City Secretary examined the petition, and on June 7, 2022 submitted her certificate to the City Council stating the petition was sufficient and in compliance with the provisions of Article IV of the City Charter; and

WHEREAS, on July 19, 2022, the proposed initiative ordinance was read and a public hearing was held in accordance with Section 4.07 of the City Charter; and

WHEREAS, in accordance with the City Charter, the City Council deems it in the interest of the public to call a special election for the Proposition hereinafter stated; NOW THEREFORE;

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

**SECTION 1.** A municipal Special Election is ordered to be held in the City of Denton, Texas on Tuesday, November 8, 2022, such date being a uniform election date as defined in Texas Election Code § 41.001, as amended, to submit to the voters of the City a proposed citizen-initiated ordinance regarding the elimination of low-level marijuana offenses. The ballot shall be prepared with the following Proposition:

**CITY OF DENTON PROPOSITION B**

Shall an initiative ordinance be approved to eliminate low-level marijuana enforcement?

FOR THE ORDINANCE \_\_\_\_\_

AGAINST THE ORDINANCE \_\_\_\_\_

**SECTION 2.** If the Proposition provided in Section 1, above, is approved by a majority of voters voting at the election, the City Code is amended as indicated below:

**AN ORDINANCE TO ELIMINATE LOW-LEVEL MARIJUANA ENFORCEMENT**

**BE IT ORDAINED BY THE VOTERS OF THE CITY OF DENTON:**

Chapter 21, Article V of the City Code is hereby created, to be titled "Marijuana Enforcement" and to read as follows:

#### ARTICLE V. - MARIJUANA ENFORCEMENT

Sec. 21-80. - Ending citations and arrests for misdemeanor possession of marijuana.

(a) Denton 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 Denton 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 a Denton 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 Denton 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) Denton police officers shall not issue any charge for possession of marijuana unless it meets at least one of the factors described in (b).

Section 21-81. - 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 21-82. - 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 § 21-80(b).

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

Section 21-83. - Prohibition against City police using the odor of marijuana or hemp as probable cause for search or seizure.

(a) Denton 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 § 21-80(b).

**Section 21-84. - Training and policy updates; community involvement.**

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

(b) The City Manager shall work with the Denton 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 Denton 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 21-85. - Discipline.**

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

**Section 21-86. - Reporting.**

(a) Within three months of the adoption of this ordinance, and once per year 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.

**SECTION 3.** The polling places shall be designated by the Denton County Elections Administrator (the "Elections Administrator") in accordance with the provisions of a joint election agreement and contract for election services (the "Agreement") with the Elections Administrator. The locations of such polling places are set forth in Exhibit A, attached hereto. Exhibit A shall be modified to include additional or different election day polling places designated by the Elections Administrator and to conform to the Agreement.

**SECTION 4.** Early voting shall be conducted by personal appearance at the locations, dates and times set forth in Exhibit B, attached hereto, and during the early voting period as required or permitted by law. Exhibit B shall be modified to include additional or different early voting locations designated by the Elections Administrator and to conform to the Agreement.

**SECTION 5.** The most accurate information on election day and early voting locations and voting times can be found or obtained by visiting the Denton County webpage noted below or contacting said County as noted:

Denton County Elections Administrator  
701 Kimberly Drive, Suite A101  
Denton, Texas 76208  
(940) 349-3200 – Phone  
(940) 349-3201 – Facsimile  
[elections@dentoncounty.com](mailto:elections@dentoncounty.com)  
<https://www.votedenton.com/upcoming-election-information/>

**SECTION 6.** The Elections Administrator shall serve as the early voting clerk in accordance with the terms of the Agreement. The main early voting location for the election shall be at the following address:

Denton County Elections Administrator  
701 Kimberly Drive, Suite A101  
Denton, Texas 76208

**SECTION 7.** Applications for early voting by mail must be received no later than the close of regular business on October 28, 2022. Applications for early voting by mail must be submitted to the following address:

Early Voting Clerk  
Denton County Elections Administrator  
701 Kimberly Drive, Suite A101  
Denton, Texas 76208

**SECTION 8.** The manner of holding such election and all questions pertaining thereto shall be governed by the election laws of the State of Texas.

**SECTION 9.** This Ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by Alison Maguire and seconded by Brandon Chase McGee, the ordinance was passed and approved by the following vote [7 - 0]:

	Aye	Nay	Abstain	Absent
Gerard Hudspeth, Mayor:	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
Vicki Byrd, District 1:	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
Brian Beck, District 2:	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>



Jesse Davis, District 3:	<u>✓</u>	<u>          </u>	<u>          </u>	<u>          </u>
Alison Maguire, District 4:	<u>✓</u>	<u>          </u>	<u>          </u>	<u>          </u>
Brandon Chase McGee, At Large Place 5:	<u>✓</u>	<u>          </u>	<u>          </u>	<u>          </u>
Chris Watts, At Large Place 6:	<u>✓</u>	<u>          </u>	<u>          </u>	<u>          </u>

PASSED AND APPROVED this the 26<sup>th</sup> day of July, 2022.

  
GERARD HUDSPETH, MAYOR

ATTEST:  
ROSA RIOS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

  
BY: \_\_\_\_\_

