

FAYETTEVILLE CODE OF ORDINANCES

Title XIII, Article II s. 130.02

Arrests and Prosecution of Marijuana Cases

(A) Title.

This chapter shall be known as the Lowest Law Enforcement and Prosecutorial Priority Policy Ordinance.

(B) Purpose.

The purpose of this chapter is:

- (1) to make investigations, citations, arrests, property seizures, and prosecutions for misdemeanor marijuana offenses, where marijuana was intended for adult personal use, the City of Fayetteville's lowest law enforcement and prosecutorial priority; and
- (2) to transmit notification of the enactment of this initiative to state and federal elected officials who represent the City of Fayetteville.

(C) Findings.

- (1) Decades of arresting millions of marijuana users have failed to control marijuana use or reduce its availability.
- (2) Otherwise law-abiding adults are being arrested and imprisoned for nonviolent marijuana offenses, which is clogging courts and jails in Arkansas.
- (3) Marijuana arrests prosecuted as criminal offenses result in loss of important job and educational opportunities.
- (4) In 2005 alone, over 402 marijuana arrests were booked by the City of Fayetteville.
- (5) Each year, Arkansas spends more than \$30 million of taxpayer money enforcing marijuana laws.
- (6) Law Enforcement resources would be better spent fighting serious and violent crimes.
- (7) Making adult marijuana offenses Fayetteville's lowest law enforcement priority will reduce the City's spending on law enforcement and punishment.

(D) Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) Adult is defined as per Arkansas state law for the purposes of this ordinance, as persons eighteen (18) or older.
- (2) Fayetteville law enforcement officer means a member of the Fayetteville Police Department or any other city agency or department that engages in law enforcement activity with the City's jurisdiction.
- (3) Lowest law enforcement priority means a priority such that all law enforcement and prosecutorial activities related to all offenses other than adult, personal-use marijuana offenses shall be a higher priority than all law enforcement and prosecutorial activities related to marijuana offenses, where the marijuana was intended for adult personal use, other than the exceptions designated in this chapter.
- (4) Marijuana means all parts of the cannabis plant, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its or resin.

(E) Lowest Law Enforcement Priority Policy

(1) Fayetteville law enforcement officers shall make law enforcement activity relating to marijuana offenses, where the marijuana was intended for adult personal use, their lowest law enforcement priority. Law enforcement activities relating to marijuana offenses include, but are not limited to, investigation, citation, arrest, seizure of property, or providing assistance to the prosecution of adult marijuana offenses.

(2) Fayetteville's prosecuting attorney shall make marijuana offenses, where the marijuana was intended for adult personal use, the lowest prosecutorial priority.

(3) This lowest law enforcement priority policy shall not apply to driving under the influence.

(F) Notification of Federal and State Officials.

(1) Beginning three months after the enactment of this chapter, the city clerk shall execute a mandatory and ministerial duty of sending letters on an annual basis to Fayetteville voters' U.S. representative or representatives, both of Arkansas's U.S. senators, Fayetteville voters' senators and Assembly members in the Arkansas State Legislature, the governor of Arkansas, and the president of the United States. This letter shall state, "The citizens of Fayetteville have passed an initiative to de-prioritize adult marijuana offenses, where the marijuana is intended for personal use, and request that the federal and Arkansas state governments take immediate steps to enact similar laws." This duty shall be carried out until state and federal laws are changed accordingly.

(G) Enforceability.

All sections of this chapter are mandatory. If any provision of this chapter is not carried out properly, any person who is registered to vote in Fayetteville may seek a writ of mandate to ensure the law is fully implemented.

(H) Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

(I) Effective Date.

This initiated ordinance was effective when passed by the city voters on November 4, 2008.

Editor's Note from City Attorney:

§ 130.02 is the result of an initiated ordinance which is subject to the same constitutional and legal constraints as any ordinance passed by the City Council. This ordinance may be in violation of the Mayor's statutory power (A.C.A. § 14-43-504) as chief executive officer and supervisor of the Police. City Attorney

<http://www.fayetteville-ar.gov/DocumentCenter/Home/View/6128>