

**ORDINANCE
(AS AMENDED)
CITY OF NEW ORLEANS**

CITY HALL: January 28, 2016

CALENDAR NO. 31,148

NO. 26816 MAYOR COUNCIL SERIES

BY: COUNCILMEMBERS GUIDRY AND WILLIAMS

AN ORDINANCE to amend and reordain Section 54-505 of the Code of the City of New Orleans relative to simple possession of marijuana and/or synthetic cannabinoids, to establish penalties for violations of Section 54-505, to provide for the issuance of summons in lieu of custodial arrest for certain violations of Section 54-505; and otherwise to provide with respect thereto.

WHEREAS, in 2010 this Council enacted an ordinance amending Chapter 54 of the Code of the City of New Orleans to establish simple possession of marijuana, first offense, as a municipal offense for which a summons could be issued in lieu of arrest; and

WHEREAS, an analysis of the New Orleans Police Department and Municipal Court data was performed to analyze the demographic trends in the enforcement of marijuana prohibition in New Orleans and to evaluate the implementation and impact of the 2010 ordinance; and

WHEREAS, this analysis showed that total criminal justice system participation (arrests by summonses and custodial arrests) for charges involving marijuana was down roughly 31% in terms of total numbers, with close to 5,000 fewer arrests in the 2011-2014 period as compared to the 2007-2010 period. Custodial arrests were down over 50%, with nearly 8,000 fewer custodial arrests in the 2011-2014 period as compared to the 2007-2010 period; and

WHEREAS, the analysis indicated the use of summons was not affected by race—
African-Americans experienced a 69% summons rate and whites experienced a 68% summons
rate; and

WHEREAS, the analysis also indicated that in the four year period of 2011-2014,
92.29% of all those arrested where a felony marijuana arrest was the top charge were African-
Americans. Over 90% were male, and 84% were 29 years of age or younger; and

WHEREAS, recent changes in State law have reduced the penalties for marijuana
possession, and also permit municipalities to expand the scope of municipal offenses for
marijuana possession; and

WHEREAS, the 2010 ordinance has proven to be considerably more equitable in
enforcement than State and felony charges; and

WHEREAS, the New Orleans Police Department still spends numerous man hours per
year performing arrests for marijuana related offenses; and

WHEREAS, such manpower expenditures are not the best use of limited police
resources in the current environment; **NOW, THEREFORE**

1 **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**

2 **ORDAINS**, That Section 54-505 of the Code of the City of New Orleans is hereby amended and
3 reordained to read as follows:

4 **“Sec. 54-505. – Simple possession of marijuana and/or synthetic cannabinoids.**

- 5 (A) It shall be unlawful for any person knowingly or intentionally to possess
6 marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic
7 cannabinoids, as defined in La. R.S. 40:964, Schedule I, unless such substance

8 was obtained directly or pursuant to a valid prescription or order from a
9 practitioner, or as provided in La. R.S. 40:1046.1, while acting in the course of his
10 professional practice, or as otherwise authorized by law.

11 (B) Upon a first conviction of a violation of subsection (A) of this Section with regard
12 to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, except as
13 provided in La. R.S. 40:966(F), upon conviction the offender shall be fined not
14 more than \$40.00.

15 (1) A conviction for a violation of subsection (A) with regard to marijuana,
16 tetrahydrocannabinol, or chemical derivatives thereof, except as provided in La.
17 R.S. 40:966(F), which occurred more than two (2) years prior to a violation of this
18 Section shall not be considered a predicate conviction for purposes of determining
19 a “first” conviction under this Section.”

20 (C) Upon a second conviction of a violation of subsection (A) of this Section with
21 regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, except
22 as provided in La. R.S. 40:966(F), upon conviction the offender shall be fined not
23 more than \$60.00 for each violation.

24 (D) Upon a third conviction of a violation of subsection (A) of this Section with
25 regard to marijuana, tetrahydrocannabinol, or chemical derivatives thereof, except
26 as provided in La. R.S. 40:966(F), upon conviction the offender shall be fined
27 not more than \$80.00.

28 (E) Upon a fourth of subsequent conviction of a violation of subsection (A) of this
29 Section with regard to marijuana, tetrahydrocannabinol, or chemical derivatives

30 thereof, except as provided in La. R.S. 40:966(F), upon conviction the offender
31 shall be fined not more than \$100.00 for each violation.”

32 (F) Upon conviction for a violation of subsection (A) with regard to synthetic
33 cannabinoids, the offender shall be punished, except as provided for in La. R.S.
34 40:966(F), as follows:

35 (1) Upon a first conviction, the offender shall be fined not more than \$500.00,
36 confined in the parish jail for not more than six months, or both.

37 (2) Upon a second conviction the offender shall be fined not more than
38 \$750.00, confined in the parish jail for not more than six months, or both.

39 (3) Upon a third or subsequent conviction, the offender shall be fined not
40 more than \$1000.00, confined in the parish jail for not more than six
41 months, or both.

42 (G) This Section shall be enforced by use of summons in lieu of custodial arrest, in
43 accordance with Sec. 54-28.

44 (H) If a defendant upon whom a fine has been imposed under this Section alleges
45 indigency, or otherwise fails to pay the imposed fine, the Court must first
46 determine whether the defendant has willfully refused to pay or make bona fide
47 efforts to legally acquire resources to pay; if the defendant has not willfully
48 refused to pay and has made bona fide efforts to attempt to pay the fine, the Court
49 shall use its discretion to fashion alternative penalties other than imprisonment,
50 including installment payments or community service. Imprisonment, and/or any
51 other alternative penalties that impose restrictive treatment on defendants greater
52 than they otherwise would have received under this Section if not for their
53 inability to pay, are prohibited.

54 (I) In the event that any one or more provisions of this Section shall, for any reason,
55 be held to be invalid, illegal or unenforceable in any respect, such invalidity,
56 illegality, or unenforceability shall not affect any other provision of this Section.
57 Rather, this Section shall be construed and enforced as if such invalid, illegal or
58 unenforceable provision had never been contained therein.”

1 **SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**

2 **ESTABLISHES**, That this ordinance shall become effective (90) days after the date of its
3 adoption into law.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS MARCH 17, 2016

**JASON ROGERS WILLIAMS
PRESIDENT OF THE COUNCIL**

DELIVERED TO THE MAYOR ON MARCH 18, 2016

**APPROVED:
DISAPPROVED: MARCH 23, 2016**

**MITCHELL J. LANDRIEU
MAYOR**

RETURNED BY THE MAYOR ON MARCH 24, 2016 AT 8:55 A.M.

**LORA W. JOHNSON
CLERK OF COUNCIL**

ROLL CALL VOTE:

YEAS: BROSSETT, CANTRELL, GRAY, GUIDRY, HEAD, RAMSEY, WILLIAMS - 7
NAYS: 0
ABSENT: 0
RECUSED: 0

**THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY**
Lora W. Johnson
CLERK OF COUNCIL