



# City of Santa Fe, New Mexico

## LEGISLATIVE SUMMARY

BILL NO. 2014 \_\_\_\_

### Marijuana Clarification

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**SPONSOR(S):** Councilor Bushee

**SUMMARY:** At the August 27, 2014 City Council meeting, the Governing Body adopted Ordinance No. 2014-29 which had been introduced by a referendum and initiative petition. The Ordinance created a new Section 20-6 SFCC 1987 to establish that possession of one ounce or less of marijuana and possession and certain marijuana paraphernalia are civil infractions.

Based on the August 22, 2014 opinion of the City Attorney, "the New Ordinance does not contain within its text a specific prohibition for possessing one ounce or less of marijuana...In the event that the Governing Body adopts the New Ordinance, we would propose an amendment to include that language in the text." Therefore, the bill proposes to amend Subsection 20-6.1 SFCC 1987 to clarify that it is unlawful to possess one ounce or less of marijuana and certain marijuana paraphernalia.

**PREPARED BY:** Melissa Byers, Legislative Liaison

**FISCAL IMPACT:** No

**DATE:** September 10, 2014

**ATTACHMENTS:** Bill

**ACTION SHEET  
ITEM FROM PUBLIC SAFETY COMMITTEE MEETING OF 09/16/14**

**ISSUE: AN ORDINANCE AMENDING SUBSECTION 20-6.1 SFCC 1987 TO CLARIFY THAT IT IS UNLAWFUL TO POSSESS ONE OUNCE OR LESS OF MARIJUANA AND CERTAIN MARIJUANA PARAPHERNALIA**

**PUBLIC SAFETY COMMITTEE ACTION: Recommended not to support**

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

<b>VOTE</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
<b>CHAIRPERSON DIMAS</b>		<b>X</b>	
<b>VICE-CHAIPERSON HARRIS</b>		<b>X</b>	
<b>MEMBER MIKE MIER</b>		<b>X</b>	
<b>MEMBER NANCY OWEN-LEWIS</b>		<b>X</b>	
<b>MEMBER PETER MIZRAHI</b>		<b>X</b>	
<b>MEMBER MIKE BOWEN</b>		<b>X</b>	
<b>MEMBER ERIC JOHNSON</b>		<b>X</b>	
<b>MEMBER DAVID TRUJILLO</b>		<b>X</b>	
<b>MEMBER JOE ARELLANO</b>		<b>X</b>	

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1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-\_\_

3 INTRODUCED BY:

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5 Councilor Patti Bushee

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10 AN ORDINANCE

11 AMENDING SUBSECTION 20-6.1 SFCC 1987 TO CLARIFY THAT IT IS UNLAWFUL TO  
12 POSSESS ONE OUNCE OR LESS OF MARIJUANA AND CERTAIN MARIJUANA  
13 PARAPHERNALIA.

14  
15 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

16 Section 1. Subsection 20-6.1 SFCC 1987 (being Ord. #2014-29, §3) is amended to  
17 read:

18 20-6.1 Possession Prohibited; Lowest Law Enforcement Priority; [~~Possession~~  
19 ~~Prohibited~~]; Civil Fine.

20 A. It is unlawful for a person intentionally to possess one (1) ounce or less of marijuana or  
21 paraphernalia intended for use, or designed for use in ingesting, inhaling, or otherwise introducing  
22 marijuana into the human body.

23 B. It is the duty of the police department to make possession of one ounce or less of  
24 marijuana the lowest law enforcement priority.

25 [~~B~~]C. A person who possesses one ounce or less of marijuana may be fined no more than

1 twenty-five dollars (\$25.00). It is not a violation of this section for a person to possess marijuana  
2 obtained pursuant to a valid prescription or order of a practitioner while acting in the course of his  
3 professional practice or as authorized by the Controlled Substances Act, Section 30-31-1 NMSA  
4 1978.

5 [E]D. A person possessing paraphernalia intended for use, or designed for use in ingesting,  
6 inhaling, or otherwise introducing marijuana into the human body may be fined no more than twenty-  
7 five dollars (\$25.00).

8 APPROVED AS TO FORM:

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11 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Melissa/Ordinances 2014/Marijuana Clarification*

**City of Santa Fe  
Fiscal Impact Report (FIR)**

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

**Section A. General Information**

(Check) Bill:     X     Resolution:     X    

(A single FIR may be used for related bills and/or resolutions)

Short Title(s):

(1) AN ORDINANCE CLARIFYING THAT IT IS UNLAWFUL TO POSSESS ONE OUNCE OR LESS OF MARIJUANA AND CERTAIN MARIJUANA PARAPHERNALIA.

(2) A RESOLUTION ESTABLISHING ADMINISTRATIVE PROCEDURES RELATING TO CIVIL PENALTIES FOR POSSESSION OF ONE OUNCE OR LESS OF MARIJUANA AND MARIJUANA PARAPHERNALIA.

Sponsor(s): Councilors Bushee and Lindell

Reviewing Department(s): Police Department and City Attorney's Office

Persons Completing FIR: Police Chief Eric F. Garcia & Kelley Brennan Date: 9/24/13 Phone: 955-5010/955-6512

Reviewed by City Attorney: *Kelley A. Brennan* Date: 9/29/14  
(Signature)

Reviewed by Finance Director: *Joselita Garcia* Date: 9/26/14  
(Signature)

**Section B. Summary**

Briefly explain the purpose and major provisions of the bill/resolution:

The bill amends Subsection 20-6.1 SFCC 1987 to clarify that it is illegal to possess one ounce or less of marijuana; the resolution establishes administrative procedures for administration of the ordinance and restates that possession of one ounce or less of marijuana is the lowest law enforcement priority.

**Section C. Fiscal Impact**

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)\*

**1. Projected Expenditures:**

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs  
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs  
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: \_\_\_\_\_

\_\_\_\_\_ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY 14/15	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY 15/16	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected
	Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Fringe**	_____	_____	_____	_____	_____	_____	_____
	Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	<u>General</u>
	All Other Operating Costs	<u>\$16,160</u>	<u>A</u>	<u>R</u>	<u>\$3,700</u>	<u>A</u>	<u>R</u>	<u>General</u>
	Total:	<u>\$16,160</u>			<u>\$3,700</u>			

\* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. \*\*For fringe benefits contact the Finance Dept.

**2. Revenue Sources:**

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected
	<u>N/A</u>	\$ _____	_____	\$ _____	_____	_____
	_____	\$ _____	_____	\$ _____	_____	_____
	_____	\$ _____	_____	\$ _____	_____	_____
	Total:	\$ _____		\$ _____		

**3. Expenditure/Revenue Narrative:**

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

**Expenditures: New scales, form holders and initial print of new civil penalty forms will be required for all personnel the first year and then replacement of equipment and reprinting of forms for subsequent years.**

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**Section D.      General Narrative**

**1. Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

**Both the bill and resolution relate to the decriminalization referendum and initiative petition that generated an ordinance which the Governing Body ultimately adopted on August 27, 2014.**

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**2. Consequences of Not Enacting This Bill/Resolution:**

Are there consequences of not enacting this bill/resolution? If so, describe.

**If the bill is not approved, the Ordinance would not contain within its text a specific prohibition for possessing one ounce or less of marijuana. If the resolution is not adopted, there would not be administrative procedures in place, in the event a civil penalty citation would be appealed.**

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**3. Technical Issues:**

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

**None that staff are aware of.**

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**4. Community Impact:**

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

**Establishing administrative procedures for the ordinance, sets up a process for when a person wants to appeal a civil penalty for possession.**

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Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08