

## ORDINANCE NO. 1639

### AN ORDINANCE AMENDING CERTAIN SECTIONS OF *THE ALAMOGORDO CODE OF ORDINANCES CONCERNING MARIJUANA*

WHEREAS, the New Mexico Legislature Legalized Marijuana through the Cannabis Regulation Act during the 2021 Special Session; and,

WHEREAS, the State of New Mexico continues to make changes to regulations concerning cannabis; and,

WHEREAS, the State of New Mexico does not require a Public Hearing regulation of the Local Governing Body concerning cannabis; and,

**THEREFORE, BE IT ORDAINED** by the City Commission of the City of Alamogordo that the following sections of the *Code of Ordinances* be amended to read as follows:

#### **34-01-010. Definitions.**

The words and phrases below, wherever used in this article, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. “Consume,” “Consuming,” and “Consumption” mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.
- B. “Consumer” means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
- C. “Cultivate” and “Cultivation” mean to propagate, breed, grow, prepare and package marijuana.
- D. “Department” means the State of New Mexico Department of Health Services or its successor agency.
- E. “Manufacture” and “Manufacturing” means to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- F. “Marijuana”
  - 1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.
  - 2. Includes cannabis as defined in N.M.R.S. §26-2B-4, §26-2B-53. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis,

oil or cake made from the seeds of the plant, sterilized seeds of the marijuana to prepare topical or oral administrations, food, drink or other products.

- G. “Marijuana Establishment” means an entity licensed by the Department to operate all of the following:
1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
  2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
  3. A single off-site location at which the licensee may manufacture marijuana and marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
- H. “Marijuana Products” means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.
- I. “Marijuana Testing Facility” means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.
- J. “Open Space” means a public park, public sidewalk, public walkway or public pedestrian thoroughfare.
- K. “Person” means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- L. “Process” and “Processing” means to harvest, dry, cure, trim or separate parts of the marijuana plant.
- M. “Producer” is a business that grows, harvests, dries, trims, cures or packages cannabis for sale to a wholesaler or retailer. They may also produce and sell cannabis plants, seeds, plant tissue culture and other immature plants or parts of cannabis plants to other cannabis producer licensees.
- N. “Public Place” has the same meaning prescribed in the Dee Johnson Clean Indoor Air Act, N.M.R.S. §24-16-3.
- O. “Retailer” is a business that typically buys goods from a manufacturer, wholesaler, producer, or other distributor and resell them to the public.
- P. “Smoke” means to inhale, exhale, burn, carry, or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

**ARTICLE 34-02. MARIJUANA LICENSES**

**34-02-020. Application.**

Applications for a license to sell marijuana within the city shall be made to the city clerk on a form prescribed by the clerk. Each application shall include a copy of the cannabis license for the location from the New Mexico Cannabis Control Division and shall be accompanied by a fee of fifty dollars (\$50.00) to cover the expense of investigations. An investigation shall be made of the applicant, the matters stated in the application, and for compliance by the applicant and the proposed location of the licensed premises for compliance with all applicable codes.

**34-02-030. License Fee.**

The fee for licenses per location is as follows:

- Retailer-license, per annum: \$250.00
- Producer license, per annum: \$250.00
- Manufacturer license, per annum: \$500.00

All licenses shall be issued for the period January 1 to December 31. The license fee shall not be refunded or prorated. The above does not include business registration fees.

**PASSED, APPROVED AND ADOPTED** this 11<sup>th</sup> day of November 2021.



CITY OF ALAMOGORDO, NEW MEXICO  
a New Mexico municipal corporation

By: *Richard A. Boss*  
Richard A. Boss, Mayor

ATTEST:

*Rachel Hughs*  
Rachel Hughs, City Clerk

APPROVED AS TO FORM:

*[Signature]*  
Petria Bengoechea, City Attorney

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