



CITY ATTORNEY'S OFFICE

200 East Broadway
Hobbs, New Mexico 88240

575-397-9226
575-391-7876 fax

CITY OF HOBBS' PROPOSED CANNABIS REGULATION ORDINANCE

Frequently Asked Questions (FAQs)

1. Does this proposed ordinance legalize cannabis (aka “marijuana”) in Hobbs, New Mexico?

A. No. The City of Hobbs Cannabis Regulation Ordinance does not legalize cannabis. The City of Hobbs Cannabis Regulation Ordinance puts in place permissible restrictions on the cannabis industry. State law – not City law – legalized marijuana. (NMSA 1978, § 26-2C-1, et seq.)

2. What’s the difference between the “Cannabis Regulation Act” and the “Cannabis Regulation Ordinance”?

A. The “Cannabis Regulation Act” is the state law that legalized marijuana. The “Cannabis Regulation Ordinance” is the proposed ordinance by the City of Hobbs that is designed to regulate the cannabis industry in Hobbs, New Mexico.

3. Can the City of Hobbs refuse to allow the legalization of cannabis?

A. No. As a “Home Rule” municipality, the City of Hobbs does have the power to create laws (i.e. ordinances) however, this power is limited to laws “not expressly denied by general law...” (NM Const. Art. 10, §6). The New Mexico Legislature expressly denied any municipality the ability to criminalize marijuana possession, cultivation, and use in the Cannabis Regulation Act. (NMSA 1978, § 26-2C-12(B); NMSA 1978, § 26-2C-13)

4. Can a person use cannabis in public? How old do you have to be to use cannabis?

A. No. Cannabis products may only be smoked, vaped and ingested within an indoor or outdoor “cannabis consumption area.” Cannabis consumption areas are not public places and they must be at a distance of 300 ft. from schools and daycare centers. Persons who engage in consumption must be 21 years or older, unless they have a medical marijuana card. (NMSA 1978 § 27-2C-12(2))

5. Can the City of Hobbs make it a crime to open a cannabis business?

A. No. The New Mexico Legislature has expressly stated that a municipality cannot criminalize conduct that is allowed under the Cannabis Regulation Act including operating a cannabis establishment. (NMSA 1978, § 26-2C-13(B))

6. Can the City of Hobbs prohibit cannabis businesses from doing business in Hobbs, New Mexico?

- A. No. The New Mexico Legislature has expressly stated that a municipality may not “completely prohibit the operation of” a cannabis business. (NMSA 1978, § 26-2C-12(B)(2))

7. Can the City of Hobbs exercise any control over a cannabis business?

- A. Yes. The New Mexico Legislature has authorized a municipality to implement “time, place, and manner” restrictions on cannabis businesses. Additionally, the New Mexico Legislature requires that a cannabis “grower” (i.e. producer) prove that they have access to an adequate water supply. (NMSA 1978, § 26-2C-7(B)(3)). As a result, the City of Hobbs proposes to limit the size of cannabis “growers” (i.e. producers) that are connected to the City of Hobbs water service. The aim of this restriction is to conserve the City’s water supply which has been a public health, safety, and welfare initiative of the City of Hobbs since at least 2014. (HMC Chapter 13.20)

8. Under the proposed ordinance what type of cannabis producers are allowed to connect to the City of Hobbs water system?

- A. Cannabis producers microbusiness (1-200 mature cannabis plants) which is a licensed cannabis producer at a single licensed premises;
Integrated cannabis microbusiness (1-200 mature cannabis plants) which is a cannabis business that is licensed to conduct multiple cannabis-related activities including production of cannabis;
Vertically integrated cannabis establishment (1-200 mature cannabis plants) which is a person or business that is licensed to act in multiple cannabis-related roles including, but not limited to, the role of a producer of cannabis.
(Proposed Ordinance Section 5.06.110 Cannabis producers- restrictions)

9. Does the proposed ordinance place any restrictions on cannabis retailers?

- A. Yes. Similar to alcohol retailers, cannabis retailers cannot establish a business location within 300 ft. of a school, church, or military installation. (Proposed Ordinance Section 5.06.050). Additionally, cannabis retailers cannot sell alcohol and cannot allow the consumption of cannabis on premises unless specifically licensed by the State of New Mexico as a “cannabis consumption area.”

10. Does the proposed ordinance authorize anything more “permissive” than the State of New Mexico has authorized related to legalization of cannabis?

- A. No. The Cannabis Regulation Ordinance is not more “permissive” than the State of New Mexico Cannabis Regulation Act because the City of Hobbs has added additional requirements for cannabis businesses including limitations on water usage and locations of cannabis businesses. (Proposed Ordinance Sections 5.06.050 and 5.06.110). Additionally, pursuant 21 U.S.C. § 812 cannabis is considered a “Schedule I” controlled substance and otherwise illegal under federal law.