

CITY OF HOBBS

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 1 OF THE HOBBS MUNICIPAL CODE
ESTABLISHING CIVIL INFRACTION VIOLATIONS AND ENFORCEMENT
PROCEDURES

WHEREAS, NMSA 1978, §3-17-1 allows a municipality to adopt ordinances not inconsistent with the laws of New Mexico for the purpose of providing for the safety, preserving the health, promoting the prosperity, and improving the morals, order, comfort, and convenience of the municipality and its inhabitants; and

WHEREAS, the Constitution of New Mexico Art. X, §6(D) grants powers to home rule municipalities, such as the City of Hobbs, to enact civil laws governing civil relationships incident to the exercise of an independent municipal power; and

WHEREAS, pursuant to the Hobbs Municipal Code Chapter 1.16, a violation of the Code is generally punishable by a fine of not more than five hundred dollars (\$500) or imprisonment for not more than ninety (90) days or both; and

WHEREAS, staff for the City of Hobbs have identified various sections of the Hobbs Municipal Code that, if violated, should not warrant incarceration for any amount of time; and

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HOBBS, NEW MEXICO, that Chapter 1 is hereby amended as more specifically described as follows:

TITLE 1

GENERAL PROVISIONS

Chapter 1.13 – Civil Infractions

1.13.010 Civil Infractions – Establishment and Purpose.

A procedure to address certain violations of the Hobbs Municipal Code as civil infractions, subject to the provisions below, is hereby established. To accommodate the City's desire to address these matters, a civil infraction procedure has been established for the purpose of decriminalizing penalties for violations of certain City ordinances and providing an efficient and practical forum for the hearing and determination of cases arising from these violations.

1.13.020 Definitions.

As used in this Section:

"Authorized official" means the City Manager or the City Manager's designee.

"Civil infraction" means an act or admission that is prohibited by an ordinance, is not a crime under that ordinance, and for which a civil penalty may be ordered.

"Civil action" means a legal process in which the defendant is alleged to be responsible for a civil infraction.

"Informal hearing" means a court proceeding in which the alleged violator admits responsibility for a civil infraction and appears in court, discusses the facts of the case with the Municipal Court Judge, and presents evidence in mitigation of the alleged violation for the Judge's consideration prior to the Judge entering an order.

"Formal hearing" means a court proceeding in which the alleged violator denies responsibility for a civil infraction and the Municipal Court Judge conducts a civil bench trial, and the parties may call witnesses, present evidence, and argue the facts of the case.

"The Court" means Hobbs Municipal Court.

1.13.030 Application.

Notwithstanding the procedures outlined in Hobbs Municipal Code Chapter 1.12, the procedures set forth in Chapter 1.13 apply to violations of ordinances specifically designated as civil infractions by in the Hobbs Municipal Code, or for which a civil penalty only is assigned therein.

1.13.040 Action – Commencement – Citations – Issuance and Service.

- A. A civil action may be commenced upon the issuance, by an authorized official, of a civil infraction citation advising the alleged violator of the civil infraction and directing the alleged violator to appear in court. Any civil infraction citation issued as a notice to appear is a valid complaint, though not verified, in the event the person receiving it voluntarily appears in court.
- B. An authorized official may issue a civil infraction citation to a person if:
 - 1. The authorized official witnesses a person commit a civil infraction; or
 - 2. Based upon an investigation, the authorized official has reasonable cause to believe that the person is responsible for a civil infraction.
- C. Civil infraction citations shall be served by an authorized official as follows:
 - 1. Except as otherwise provided by law, an authorized official shall personally serve a copy of the civil infraction citation upon the alleged violator.
 - 2. If the civil infraction involves the use or occupancy of land, a building, or other structure, a copy of the civil infraction citation may be personally served upon the alleged violator or alternatively, may be served upon an owner or occupant of the land, building, or structure by posting or attaching a copy of the citation to the building or structure. In addition to posting or attaching a copy of the civil infraction citation, a copy of the citation shall be sent by certified mail to the owner of the land, building, or structure at the owner's last known address.
 - 3. The alleged violator must sign the civil infraction citation acknowledging receipt of the same. In the event the alleged violator refuses to sign the civil infraction citation, or the civil infraction citation is posted and mailed, the authorized official shall note the refusal or posting and shall file the civil infraction citation with the court and request a summons be issued for the alleged violator's appearance before the court for a formal hearing.

1.13.050 Civil Infraction Citation – Contents – Options.

- A. The civil infraction citation shall: contain an information section that specifically identifies the relevant facts alleged to constitute a civil infraction; be serially numbered; contain spaces for the name, physical address and mailing address, city and state of the alleged violator; contain a section for the alleged violator's physical description, age and sex; state the municipal ordinance alleged to have been violated, the date and time of the alleged violation; contain the authorized

official's signature; state the place where the alleged violator will appear in court; state a day and time by which the alleged violator must appear in court.

- B. Further, a civil infraction citation must inform the alleged violator that he or she has one of the following options:
1. Admit responsibility for the civil infraction and appear on the date specified on the civil infraction citation for an informal hearing before the Hobbs Municipal Judge;
 2. Deny responsibility for the civil infraction and appear on the date specified on the civil infraction citation for a formal hearing before the Hobbs Municipal Judge; or
 3. Admit responsibility and pay a fine when specified.
- C. The civil infraction citation must also inform the alleged violator of all of the following:
1. That by admitting responsibility for the civil infraction, the alleged violator will waive the right to a formal hearing. Said waiver means that the alleged violator will not be able to contest the allegations at the informal hearing and the alleged violator also waives any possible appeal.
 2. That by admitting responsibility for the civil infraction, the alleged violator must still appear in person before the municipal court for an informal hearing.
 3. That by denying responsibility for the civil infraction, the alleged violator must appear in person before the municipal court at a formal hearing, and must secure private counsel prior to the date of the formal hearing, or in the alternative, appear pro se.
 4. That the civil penalty associated with the civil infraction shall not exceed \$500 but may include costs, damages, expenses, and other fees as authorized by law.
 5. That the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance will result in entry of a Default Judgment against the alleged violator on the civil infraction. The amount of the Default Judgment shall be determined by the Municipal Court Judge and shall be based on the allegations contained in the civil infraction citation.

1.13.060 Trial – Burden of Proof.

- A. The trial of a civil infraction shall be by formal hearing before the court without a jury.
- B. At a formal hearing, the City shall have the burden of proving the alleged civil infraction by a preponderance of the evidence. The City shall not be required to appear or establish the civil infraction at an informal hearing.
- C. The defendant may be represented by counsel, but counsel shall not be provided at public expense.
- D. After due consideration of the evidence and arguments presented at the hearing, the court shall determine whether the violation as alleged in the civil infraction citation has been established. If the violation is not established, an order dismissing the civil infraction citation shall be entered in the court records. If a determination is made that a violation has been established, an appropriate order shall be entered in the court records. The order shall specify all fines, costs, damages, expenses and other fees that the defendant shall be required to pay along with the date in which payment shall be due to the court.

1.13.070 General Penalties for Violations of Civil Infractions.

- A. Civil infractions must be specifically designated as such in the specific ordinance section of the Hobbs Municipal Code.
- B. Unless a specific amount is designated by ordinance, the civil penalty for a violation that is designated as a civil infraction shall be a fine in an amount not exceeding \$500 plus any costs, damages, expenses, and other fees as authorized by law.

1.13.080 Enforcement.

The City may collect any delinquent fines in a manner permitted by law. Delinquent fines and those brought to default judgment, which were assessed for infractions occurring on real property, may be held as city liens against the real property and collected in the same manner as other such debts owing to the City if the owner of the property is notified of the infraction before entry of judgment.

1.13.090 Appeal and Default Remedies

A determination that a violation has been established following a formal hearing may be appealed pursuant NMSA 1978, §35-15-7, if the required notice of appeal is filed within fifteen (15) days after the judgment or final order with the district court. For good cause shown, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside. However, the court may refuse to set aside any default judgment where it makes specific findings that the defendant failed to establish

inadvertence or excusable neglect, or that the defendant had a good and valid defense to the cause of action.

1.13.100 Dismissal of Action.

The City Attorney is authorized to file a dismissal, on behalf of the City of Hobbs as plaintiff, of any civil action filed in the Municipal Court when, in his or her opinion, the pursuit of such civil action is not justified.

1.13.110 Time of taking effect.

Upon passage of the same, the civil infraction ordinance shall take effect on December 1, 2025. The ordinance does not have a retroactive effect and does not apply to any cause of action occurring prior to the effect date outlined herein.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2025.

SAM D. COBB, Mayor

ATTEST:

JAN FLETCHER, City Clerk