

ORDINANCE NO. 1628

AN ORDINANCE REPEALING SECTION 11-04-020 OF THE ALAMOGORDO CODE OF ORDINANCES CONCERNING UNLAWFUL POSSESSION OF MARIJUANA

WHEREAS, the 2021 Special Legislative Session has passed HB2 enacting the Cannabis Regulation Act; and,

WHEREAS, among other items, HB2 sets limitations on sales and purchases of cannabis to a person who is twenty-one years old or older; and,

WHEREAS, this new law will come into effect on June 29, 2021; and,

WHEREAS, the City Commission of the City of Alamogordo, New Mexico deems it necessary to repeal Section 11-04-020 concerning Unlawful Possession of Marijuana to keep in line with HB2; and,

WHEREAS, the City Commission of the City of Alamogordo, New Mexico deems it in the best interest of the health, safety and welfare of the citizens of the City to adopt this new law by reference; and,

BE IT THEREFORE ORDAINED by the City Commission of the City of Alamogordo, New Mexico that Section 11-04-020 of the Code of Ordinances is repealed in its entirety.

11-04-020. — Generally — Unlawful possession of marijuana.

(a) — *Definition.* “Marijuana” includes all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is capable of germination.

(b) — *Unlawful possession.* Unlawful possession of marijuana consists of the possession of marijuana which was not obtained directly from, or pursuant to, a valid prescription, or order of a doctor of medicine while acting in the course of his professional practice, or as otherwise authorized by law.

(c) — *Penalties.* A person who violates this section with respect to:

~~(1) — Up to one-half (1/2) ounce of marijuana shall be issued a penalty assessment and is subject to a fine of fifty dollars (\$50.00);~~

~~(2) — More than one-half (1/2) ounce but less than one (1) ounce of marijuana is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) and by imprisonment for not more than fifteen (15) days, and, for a second or subsequent offense, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or by imprisonment for a definite term of less than ninety (90) days, or both.~~

~~(d) — *Mandatory lab fees.* A person convicted of unlawful possession of marijuana pursuant to this section prior to July 1, 1988, shall be assessed, in addition to any other fee or fine, a fee of twenty-five dollars (\$25.00) to defray the cost of chemical and other analyses of controlled substance. Effective July 1, 1988, the mandatory lab fee assessment shall be increased to seventy-five dollars (\$75.00). The municipality shall collect the fee and maintain the fees in a separate fund and transfer the fees along with other funds collected to the administrative office of the courts pursuant to Section 31-12-9, N.M.S.A. 1978, as amended.~~

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2021.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

By: _____
Richard A. Boss, Mayor

ATTEST:

Rachel Hughs, City Clerk

APPROVED AS TO FORM:

Petria Bengoechea, City Attorney