NMRLD
NEW MEXICO
REGULATION &
LICENSING DEPARTMENT

STATE OF NEW MEXICO
MICHELLE LUJAN GRISHAM, GOVERNOR
Linda M. Trujillo, Superintendent
John Blair, Deputy Superintendent

*Sent via Email Only*

June 15, 2021

The Honorable Steven Boyle
President, New Mexico Municipal League
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The Honorable Neil Segotta
Mayor, City of Raton
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Steve Kopelman
Executive Director
New Mexico Counties
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AJ Forte
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New Mexico Municipal League
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RE: Cannabis Regulation Act – Local Control

Dear Assessor Boyle, Mayor Segotta, Mr. Kopelman & Mr. Forte:

I write today to ensure all of New Mexico's local governments are prepared to help stand up our emerging adult-use cannabis industry and that local elected officials are aware of impending statutory deadlines that will require swift attention and action. New Mexico's counties, cities and towns will play a key role in the success of adult-use cannabis sales and the positive economic impact it has for local communities.

Since the passage of the Cannabis Regulation Act (the CRA) earlier this year, we have been moving swiftly to establish a regulatory and licensing framework that allows the adult-use cannabis industry to thrive while also providing necessary health and safety protections for all New Mexicans. The CRA and its provisions go into effect on June 29, 2021, and the newly created Cannabis Control Division (CCD) is required to begin processing license applications for cannabis producers, cannabis producer microbusinesses, and properly licensed medical cannabis producers no later than September 1, 2021. Further, the CRA provides that the CCD must begin issuing the remaining license types – including manufacturers and retailers – no later than January 1, 2022, and that retail sales of adult-use cannabis are to begin no later than April 1, 2022.

The CRA respects the authority of local jurisdictions and trusts local-elected leaders to make decisions around adult-use cannabis that are right for their community. There is language in the CRA specific to local jurisdictions, which are defined in the law as a municipality, home rule municipality or county. In particular, Section 12 of the CRA details "Local Control" as it relates to adult-use cannabis and provides for rules (ordinances) and policies that local jurisdictions can and cannot adopt. For example, a local jurisdiction can adopt an ordinance that reasonably limits the density of cannabis licenses and the operating times of cannabis businesses in their community as long as the ordinance does not conflict with the CRA or the Dee Johnson

Clean Indoor Air Act. As another example, a local jurisdiction cannot prevent anyone properly licensed from transporting cannabis products on public roads, nor can local jurisdictions completely prohibit the operation of a cannabis establishment. I encourage you to review Section 12 of the CRA or visit the CCD website (https://ccd.rld.state.nm.us/) to learn more.

Two specific provisions of Section 12 require timely action by local jurisdictions. Section 12(A)(2)(b) of the CRA provides that local jurisdictions must determine the minimum distance between cannabis establishments and schools or daycare centers in their community. Neither CCD nor the Regulation and Licensing Department have authority to make that determination. Additionally, the CRA provides that the minimum distance established by local jurisdictions cannot be more than three hundred (300) feet.

Relatedly, Section 12(B)(5) of the CRA provides that a local jurisdiction cannot require an existing cannabis licensee at a licensed premise to relocate. Thus, any cannabis establishment that is licensed by CCD at a licensed premise before a local jurisdiction implements rules limiting the locations in which cannabis establishments can operate cannot subsequently be required to relocate.

To ensure the needs of local communities are met, I urge each local jurisdiction to make a determination on these issues as soon as possible. The adult-use cannabis industry will bring economic development opportunities to every corner of our state, and by taking thoughtful action now, local leaders can maximize those opportunities in their communities. In the best interest of the needs of local communities, for the safety of all our citizens, and in aid to New Mexico's adult-use cannabis entrepreneurs, we urge each local jurisdiction to act on this determination issue as soon as possible.

I am hopeful that you'll share this letter with all of your members, and that it provides both clarity and urgency on the need for timely action. I am also hopeful this letter will serve as a starting point in a collaborative relationship between the newly created Cannabis Control Division (CCD) and local governments across our state.

Please do not hesitate to reach out to me or my team if you have any further questions.

Sincerely,

*Linda M Trujillo*

Linda M. Trujillo, J.D.
Superintendent
New Mexico Regulation & Licensing Department

**Sec. 28-6. Possession of up to eight ounces of marijuana prohibited; penalty.**

(a) It is unlawful for any person intentionally to possess up to eight ounces of marijuana as defined in the Controlled Substances Act (NMSA 1978, §§ 30-31-1—30-31-40) unless it was obtained pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Controlled Substances Act.

(b) Any person who violates subsection (a) of this section with respect to one ounce or less of marijuana is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than $50.00 nor more than $100.00 and by imprisonment for not more than 15 days, and, for the second and subsequent offenses, guilty of a misdemeanor and shall be punished by a fine of not less than $100.00 nor more than $300.00 or by imprisonment for a definite term of less than 90 days or both.

(c) Any person who violates subsection (a) of this section with respect to more than one ounce and less than eight ounces of marijuana is guilty of a misdemeanor and shall be punished by a fine of not less than $100.00 nor more than $300.00 or by imprisonment for a definite term less than 90 days or both.
(Ord. No. 11-87, § 1, 11-2-1987)

**Secs. 28-7—28-34. Reserved.**

## ARTICLE II. OFFENSES GENERALLY

**Sec. 28-35. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Offense* means the unlawful act of doing, or failing to do, some particular act or thing the result of which is a violation of this article.
(Ord. No. 4-2009, § 1(F), 5-11-2009)

**Sec. 28-36. Penalty.**

(a) Any person violating any provision of the criminal code ordinance of the city is guilty of a petty misdemeanor and shall be fined not more than $300.00.

(b) Each day that a violation is permitted to exist after notification constitutes a separate offense.
(Ord. No. 4-2009, § 8, 5-11-2009)

**Sec. 28-37. Failure to appear—On a citation.**

It is a petty misdemeanor for a person signing a citation not to appear at the time and place stated in the citation regardless of the disposition of the offense for which the citation was issued. A written promise to appear may be complied with by appearance of counsel.
(Ord. No. 4-2009, § 1(A), 5-11-2009)

**Sec. 28-38. Same—On a petty misdemeanor charge.**

Any person released pending trial or appeal in any criminal action who fails to appear before any court or judicial officer as required is guilty of a petty misdemeanor, if he was released in connection with a charge of a misdemeanor or a petty misdemeanor.
(Ord. No. 4-2009, § 1(B), 5-11-2009)

**Sec. 28-39. Failure to pay.**

Any person upon whom any fine or penalty is imposed may, upon order of the court convicting him, be committed to the county jail or city jail or other place provided by the city for the incarceration of offenders until the fine or penalty is fully paid. The imprisonment shall not exceed 90 days for any one offense.
(Ord. No. 4-2009, § 1(C), 5-11-2009)

**Sec. 28-40. Aiding in an offense.**

When no punishment for counseling or aiding in the commission of a particular offense is expressly prescribed by ordinance, every person who counsels or aids another in the commission of such is guilty of an offense, or petty misdemeanor, and punishable in the same manner as the principal offender.
(Ord. No. 4-2009, § 1(D), 5-11-2009)

**Sec. 28-41. Compounding a crime.**

Compounding a crime consists of knowingly agreeing to take anything of value upon the agreement or understanding, express or implied, to compound or conceal a crime or to abstain from a prosecution