



**City of Bayard**  
**CITY COUNCIL REGULAR MEETING**  
**December 13, 2021 at 1:30 PM**  
**Bayard City Community Center**

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**AGENDA**

**WORK SESSION**

**CALL TO ORDER:** Mayor Chon S. Fierro

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**APPROVAL OF THE AGENDA**

**PUBLIC INPUT**

**CONSENT AGENDA**

1. Approval of the Minutes of Special Meeting on November 29, 2021.
2. Approval of the Accounts Payable Report for December 13, 2021
3. Approval of the Police Report for November 2021.
4. Approval for the attendance to the NMWWA annual school for training credits for Jason Jaeger on January 24-27, 2021.
5. Approval of the Wastewater Report for November 2021.

**NEW BUSINESS**

6. Approval of the 2022 Holiday Schedule
7. Approval of the 2022 City Council meeting schedule
8. Construction bids for the HWY 180 and HWY 356 were received and opened on December 7, 2021. The lowest bid received is from RT Electric for \$546,573.75 (base bid) and \$4,256.00 (additive alternate #1). The available grant funds is not sufficient to award the project. City staff has requested additional grant funding from NMDOT for approximately \$125,000. Recommendation is to make a contingent approval of the lighting project only if additional grant funding can be obtained.

9. Copper Little League is requesting the City of Bayard provide internet service to the concession stand in order to allow access to the security system by police and pertinent city staff.

## **ORDINANCES/RESOLUTIONS**

- [10.](#) Adoption of Ordinance 1-2021 Cannabis Ordinance.
- [11.](#) Adoption of Ordinance 2-2021 Rescinding Possession of Marijuana.

## **ACTION FOR PERSONNEL**

12. Approval of the hiring of David Medrano for the Parks and Recreation position at the hourly rate of \$12.75 upon successful completion of all pre-employment exams and background checks.
13. Approval of the hiring of Michelle Holguin as the Accounts Payable Clerk at the hourly rate of \$14.50 per hour upon successful completion of all pre-employment exams and background checks.
14. Approval of hiring Cornel Stemley as Police Chief at the salary of \$58,240 (\$28.00 per hour) upon successful completion of all pre-employment exams, background checks and Certification by Waiver Program.

## **CLOSED SESSION - pursuant to 10-15-1 (H-2) NMSA 1978 for limited personnel matters.**

15. Introductory Employees - removing three employees from introductory status and placing them into regular status.

Anthony Aveles - wage increase of \$2.00 per hour

Michael Paez - wage increase of \$0.50

Mark Diaz - wage increase of \$0.25

## **ACTION ITEMS RESULTING FROM CLOSED SESSION**

16. Introductory Employees - removing three employees from introductory status and placing them into regular status.

Anthony Aveles - wage increase of \$2.00 per hour

Michael Paez - wage increase of \$0.50

Mark Diaz - wage increase of \$0.25

## **MAYOR AND COUNCILORS REPORTS**

## **NEXT MEETING DATE:**

**Regular Meeting - January 10, 2022**

**ADJOURNMENT**



**City of Bayard**  
**CITY COUNCIL SPECIAL MEETING**  
**November 29, 2021 at 1:30 PM**  
**Bayard Community Center**

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## MINUTES

### WORK SESSION

**CALL TO ORDER:** Mayor Chon S. Fierro

### PLEDGE OF ALLEGIANCE

### ROLL CALL

Other in attendance Melissa Rackel, Linda Pafford, Frances Gonzales, Patricia Stone, Joseph Stone, Manny Garcia, Lorenzo Marquez, Hannah Dumas, Sherry Edwards, Sonya Dixon, Joe Carlos, Aaron Ordenez, Anthony Aveles, Kristina Ortiz, and Tanya Ortiz.

### APPROVAL OF THE AGENDA

### ACTION FOR PERSONNEL

1. Discussion and action for the approval of an employment contract for the Clerk-Treasurer.

Consideration of contract for Clerk-Treasurer was presented to city council for review and posable action. Mayor Fierro requested the council post pone the item until feature discussion can be healed with attorney.

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Ortiz.

Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

### **CLOSED SESSION Pursuant to 10-15-1 (H-2) NMSA 1978 for limited personnel matters**

Hiring of Louis Frank Gomez as the Animal Control/Code Enforcement Officer, Discussion pertaining to the hiring of Police Chief, and Administrative leave with pay for Jesus Lopez.

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Medina.

Voting Yea: Mayor Fierro, Councilor Medina, Councilor Ortiz

Return to open session certifying only limited personnel matters were discussed.

Motion made by Councilor Medina, Seconded by Councilor Ortiz.

Voting Yea: Mayor Fierro, Councilor Medina, Councilor Ortiz

2. Hiring of Louis Frank Gomez as the Animal Control/Code Enforcement Officer at an hourly rate of \$13.00 per hour upon successful completion of all pre-employment exams and background reviews.

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Medina.  
Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

3. Discussion pertaining to the hiring of Police Chief.
4. Administrative leave with pay for Jesus Lopez.

Motion made by Councilor Medina, Seconded by Councilor Ortiz.  
Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

### **ACTION ITEMS RESULTING FROM CLOSED SESSION**

5. Approval of administrative leave with pay for Jesus Lopez.

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Medina.  
Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

6. Hiring of Louis Frank Gomez as the Animal Control/Code Enforcement Officer at an hourly rate of \$13.00 per hour upon successful completion of all pre-employment exams and background reviews.

Motion made by Councilor Medina, Seconded by Mayor Pro-tem Villanueva.  
Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

### **ORDINANCES/RESOLUTIONS**

7. Adoption of Resolution 19-2021 New Mexico Transportation Project - N. Foy Street

Clerk-Treasurer stated resolution 19-2021 approved on October 12, 2021 needed to be modified to correct the grant and cash match language and re-approval due to insufficient number of required council member votes.

8. Adoption of Resolution 20-2021 - Donation of property from the United Steelworkers Local 9424.

Clerk-Treasurer stated resolution 20-2021 approved on October 12, 2021 needed to be re-approved due to insufficient number of required council member votes

9. Adoption of Resolution 21-2021 for the September 30, 2021 Financial Statements and Budget Adjustments

Clerk- Treasurer Ortiz presented the September 30, 2021 Financial Statements and Budget Adjustments, indicating one of the larger adjustments is due to the fraud incident.

Motion made by Mayor Pro-tem Villanueva, Seconded by Councilor Ortiz.  
Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

### RESOLUTION 19-2021

#### PARTICIPATION IN TRANSPORTATION PROJECT FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Bayard** and the New Mexico Department of Transportation have entered into a grant agreement under the Transportation Fund Program for a local road project.

WHEREAS, the total cost of the project will be **\$65,400.00** to be funded in proportional share by the parties hereto as follows:

- a. New Mexico Department of Transportation's share shall be 95% or **\$62,130.00**  
and
- b. **City of Bayards** proportional matching share shall be 5% or **\$3,270.00**

TOTAL PROJECT COST IS **\$65,400.00**

The **City of Bayard** shall pay all costs, which exceed the total amount of **\$65,400.00**

Now therefore, be it resolved in official session that **City of Bayard** determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on June 30, 2025 and the **City of Bayard** incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into the written agreement.

NOW therefore, be it resolved by the **City of Bayard** to enter into Cooperative Agreement for Project Control Number LP10017 with the New Mexico Department of Transportation for TPF Project for year 2022 for "N. Foy Roadway & Drainage Design: preparing construction drawings, specifications, an opinion of probable construction cost, and front-end documents for the roadway and drainage improvements to a 95% and 100% design effort. May include Project Management Assistance, Geotechnical Investigation, Final Drainage Analysis, and Final Design," within the control of the **City of Bayard** in Bayard, Grant County, New Mexico.

//s// \_\_\_\_\_  
Chon S. Fierro  
Mayor

ATTEST:

//s//

Kristina Ortiz, MMC  
Clerk Treasurer

**RESOLUTION 20-2021****A RESOLUTION AUTHORIZING AND ACCEPTING THE DONATION OF  
PROPERTY****FROM THE INTERNATIONAL UNION OF MINE MILL AND SMELTER  
WORKERS - UNITED STEELWORKERS LOCAL UNION NO. 9424,  
SUCCESSOR-IN-TRUST TO LOCALS 63-69-530-604-628**

**WHEREAS**, the City of Bayard has recognized the need to protect the cultural and historic value that is held in the Bayard Union Hall.

**WHEREAS**, the City of Bayard recognizes the rich history that must be preserved and can be made possible by working together; and

WHEREAS, the City of Bayard wishes to accept the transfer of property by the United Steelworkers Local Union No. 9424 for the property described as:

Subdivision: Foy's #3; Block 4; Lot 8; .108 AC; and

Subdivision: Foy's #3; Block 4; Lot 7; .138 AC

**NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
BAYARD THAT;**

The Mayor or his designee be, is hereby, authorized to accept on behalf of the City of Bayard the donation of property by the United Steelworkers Local Union No. 9424 described as:

Subdivision: Foy's #3; Block 4; Lot 8; .108 AC; and

Subdivision: Foy's #3; Block 4; Lot 7; .138 AC

**PASSED, APPROVED AND ADOPTED** by the Governing Body this 22<sup>nd</sup> day of November 2021.

\_\_\_\_\_  
Chon S. Fierro  
Mayor

ATTEST:

//s//

\_\_\_\_\_  
Kristina Ortiz, MMC, Clerk Treasurer

## Resolution 21-2021

WHEREAS, the Bayard City Council in regular session on October 25, 2021 did propose to make certain budgetary adjustments; and

WHEREAS, the Council does hereby authorize the attached listing of budgetary adjustments for the September 30, 2021 financial statements as listed in Exhibit A.

WHEREAS, the Council does hereby approve the September 30, 2021 Financial Statements and budget adjustments as presented.

NOW THEREFORE, the Council does hereby accept and approve the budgetary adjustments and Financial Statements for the period ending September 30, 2021.

Done at Bayard, New Mexico, this 22<sup>nd</sup> day of November 2021.

//s// \_\_\_\_\_  
Chon Fierro  
Mayor

ATTEST:

//s// \_\_\_\_\_  
Kristina Ortiz, MMC  
Clerk Treasurer

**CONSENT AGENDA**

Motion made by Councilor Kelly, Seconded by Councilor Medina.

Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

The following items were included in the consent agenda:

10. Approval of the Minutes of Regular Meeting of October 12, 2021
11. Approval of the Accounts Payable Report for November 22, 2021
12. Approval of the Police Report for September 2021 and October 2021
13. Approval of attendance to Fire Inspector I training for Adrian Romero on December 13-17, 2021.

Approval of attendance to Hazardous Materials & Operating training for Mark Diaz on November 15-19, 2021 in Socorro waiving the use of personal time as a volunteer firefighter.



14. Approval of attendance to the DFA Budget Workshop (online) fee of \$50 and Clerk's Certification & Clerk's Institute Program (rate to be determined). Both programs are online, November 15-19, 2021. Attendance will be for administrative employees.
15. Acceptance of resignation of Melissa Gonzales effective October 28, 2021.

## **PUBLIC INPUT**

Melissa Rackel stated the contract for Clerk-Treasurer is a good tool for both the City and Kristina Ortiz.

Sherry Edwards thanked everyone for help getting Virginia Street clean-up.

Frances Gonzales thanked Joe Carlos for attending the Beautification meetings.

Patricia Stone had a concern about the write up in the paper about the money order that was written out to Kristina Ortiz and never heard anything more on it. Was there a internal investigation? Mayor Fierro did invite her to go to city hall and view all the documents.

## **OLD BUSINESS**

16. Residents on Dayhill Street are requesting that potholes be repaired.

Anthony Aveles stated the maintenance department has measured and is getting ready to fix the potholes. He is going to have to rent equipment and is expecting to start at the begging of the year.

## **NEW BUSINESS**

17. Comments on draft Cannabis Ordinance

Linda Pafford came before the council to present public comments regarding the proposed Cannabis Ordinance.

18. Complaint on ATV and side-by-side use.

Mr. David Wilguess submitted a letter of complaint on ATV and side-by-side use on streets. He indicated that ATV's are being operated on N. Foy St. and causing a lot of noise and damages to the road.

Clerk-Treasurer indicated the ATV's are not allowed to be used on any paved and side-by-side use is limited to city streets and not allowed on Highway 180 and Highway 356 except to cross the road.

19. Approval of cash match funding of \$750 for the Five Points Initiative for Bayard related work.

Motion made by Councilor Kelly, Seconded by Councilor Ortiz.

Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

20. Acceptance of the 2021 Election Results submitted by Grant County Clerk

Motion made by Councilor Medina, Seconded by Councilor Ortiz.

Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

21. Approval to initial a Preliminary Engineering Report for the wastewater repairs that have been identified. The approval will include authority to seek funding for the PER and to begin to seek funding for wastewater repairs.

Motion made by Councilor Medina, Seconded by Councilor Ortiz.

Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

22. Approval for the City of Bayard to be the fiscal agent for the LEDA Project - G Boyz Beef Jerky.

Motion made by Councilor Kelly, Seconded by Councilor Ortiz.

Voting Yea: Mayor Fierro, Mayor Pro-tem Villanueva, Councilor Kelly, Councilor Medina, Councilor Ortiz

23. Notification of fraud incident.

City Clerk/Treasurer reported that Bayard fell victim to a spoofing scam. wherein \$115,00.00 was placed into an account created by the scam perpetrators. The account was made to appear like an account held by Morrow Enterprises, who is doing construction on the wastewater facility. For weeks, the scammers had e-mailed the Bayard as though they were Morrow Enterprises, and when a payment came due, the scammers provided information for a direct deposit into their account. Not all money owed under the contract was transferred to the scammers. Fortunately, Bayard realized what was happening before the money was transferred. This matter has been reported to the States Police, FBI, State Auditor and is currently under investigation.

## **MAYOR AND COUNCILORS REPORTS**

Eloy Medina asked if the City was going to do anything for Christmas. Kristy did state The Bayard Volunteer will be driving Santa around town passing out candy on December 18, 2021.

Eloy also Thanked Mr. Kelly for all his efforts and thanked him for all his advice he has giving him. Eloy did ask if the potholes can be fixed for Mr. Kelly?

Mayor Fierro asked Kristy on the Solar system at the Wastewater Treatment Plant. Clerk-Treasurer Ortiz will be putting an RFP together.

He also asked about the roof at the Public Safety Building. Clerk-Treasurer Ortiz stated the engineers are working on plans and specifications.

## **NEXT MEETING DATE:**

**Regular Meeting - December 13, 2021**

**ADJOURNMENT**

MEETING ADJOURNED AT 4:00 p.m.

ATTEST:

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Chon Fierro  
Mayor

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Kristina Ortiz, MMC  
Clerk Treasurer

**BAYARD POLICE DEPARTMENT**  
**MONTHLY REPORT**  
NOVEMBER, 2021

Item 3.

**Traffic Activity**

Accidents	2
Citations Issued	12
Municipal:	6
Magistrate:	6
Stop Sign:	1
DWI	0
Motorist Assists	2
Suspicious Vehicle or person	3
Abandoned vehicle	1
Reckless driver	1
Missing or Stolen vehicle	1
Parking violations	2
Traffic stops	8

**Criminal Activity**

Arrests	7
Burglary/Larceny	3
Criminal damage	2
Domestic calls	3
Harassment	1
Unwanted subject	6
Breaking & Entering	1
Fraud/Embezzlement	1

**General Activity**

Abandoned 911	1
Civil stand by	7
Escorts	1
Welfare check	11
Meetings	2
Court	3
Follow up investigations	10
Citizen contacts	1
Citizen assists	5
Alarm	5
Fire drill	1
Suicide threat	1
Open door	2
Request for public service	8
Civil process	2
Animal calls	17
Criminal trespass warnings	2
Frequent patrols	2
Child exchange	1
Civil matter	2
Found property	1
Shots fired	1

**Juvenile Activity**

Arrests	0
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**Agency Assists**

	2
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**TOTAL CALLS HANDLED BY  
BAYARD OFFICERS**

	128
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**Offense/Incident reports generated**

	15
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Criminal trespass

Breaking &amp; Entering

Larceny

Informational

Unlawful taking of vehicle

Civil matter-harassment

Welfare check-Warrant arrest x2

Accidental property damage

Fraudulent use of credit card

Suspicious activity

Citizens Assist

Criminal damage to property

Warrant arrest

Criminal damage to property

Warrant arrest x2

**CALLS FOR SERVICE HANDLED BY  
GRANT COUNTY SHERIFFS DEPT.**

Domestic disturbance

5

Suspicious activity

19

Animal calls

9

Frequent patrols

6

Welfare check

8

Noise complaint

1

Injuring tampering

1

Civil standby

1

Missing person

1

Alarms

5

Shots fired

2

Disturbance

3

Child exchange

1

Citizen assist

1

Fireworks

1

Burglary

1

Total calls

65

Total assists

1

December 6th ,2021  
To: Mayor and City Council Members  
RE: School for Gerald Polk

Dear Mayor and City Council Members,

The NMWWA is holding its annual school on line from January 24<sup>th</sup> to January 27<sup>th</sup>. I would like to request that Gerald Polk attend this school for needed renewal credits for his certification.

Sincerely,

Jason Jaeger  
Bayard Wastewater Superintendent

**Fw: Now Scheduled - 2022 NMWWA Annual School**

Jason Jaeger <jay56ram@yahoo.com>

Fri 12/3/2021 12:47 PM

To: Jason Jaeger <wastewater@cityofbayardnm.com>

Sent from Yahoo Mail on Android

----- Forwarded Message -----

**From:** "Rose Trujillo NM Water & Wastewater Association" <rtnmwwa@gmail.com>

**To:** "jay56ram@yahoo.com" <jay56ram@yahoo.com>

**Sent:** Fri, Dec 3, 2021 at 11:55 AM

**Subject:** Now Scheduled - 2022 NMWWA Annual School

# **2022 NMWWA ANNUAL SCHOOL**

**2022 Annual School (Online WebEx) 24 Credits**

**January 24-27, 2022**

**Deadline to Register: January 19, 2022**

**Classes are Based on  
Basic Water & Wastewater Classes**

## **Topics Include:**

- \* Disinfection, Chlorination, Storage & Handling - Kevin Grassel**
- \* Pumps & Motors - Jonathan Polasek**
- \* Distribution O & M - Armando Cordero**

- \* **Water Wells - Karl Tonander**
- \* **Basic W/W Math - Filiberto Aguirre Jr.**
- \* **Basic Membrane Treatment - Henry Hervol**
- \* **W/W Characteristics & Secondary Treatment - Lyman Waller**
- \* **Sampling, Recording, & Reporting for NPDES & Groundwater Discharge Melanie Sandoval & Barbara Cooney**

### **What we Offer:**

- \* **24 Credits**
- \* **Live Instructor Training**
- \* **Beginners platform practice (prior to training)**
- \* **Certificate of Attendance**
- \* **Credit Submittal to U.O.C.P. / NMED**

**Note: Registration will not be processed unless payment has been submitted with the registration form.**

#### ***REGISTRATION***

#### **REGISTRATION FORM**

#### **REGISTER ONLINE**

#### ***PAY ONLINE***

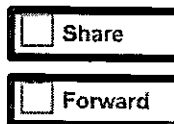
#### **\$300 Member**

#### **\$350 Non-Member**



## NMWWA

### 2022 Membership



New Mexico Water & Wastewater Association  
P.O. Box 819  
Española, NM 87532  
Office: 505-753-8840  
Fax: 505-753-9810  
Website: <https://www.nmwwa.org/>

**For additional information contact:**

**Caroline Sanchez, [csmartinez@windstream.net](mailto:csmartinez@windstream.net)**

**Rose Trujillo, [rtnmwwa@gmail.com](mailto:rtnmwwa@gmail.com)**

[Unsubscribe](#)

**Rose Trujillo**

**NM Water & Wastewater Association**

**[rtnmwwa@gmail.com](mailto:rtnmwwa@gmail.com)**

**Mon. & Fri. 8:00-12:00 (505-753-8840)**

**Tue. - Thur. (505-423-5969)**

**P.O. Box 819**

**Espanola, NM 87532**

**Office: 505-753-8840**

**Fax: 505-753-9810**

**[www.nmwwa.org](http://www.nmwwa.org)**

## City of Bayard Wastewater Treatment Plant

November 2021

11-01-2021: Plant staff turned the #2 and #3 drying beds and checked the pressure readings for the pressure test on the new dewatering building for the engineer.

11-02-2021: Started to dewater the #1 digester.

11-03-2021: Plant staff worked on a chlorine leak in the reclamation plant. #1 digester dewatered.

11-04-2021: Plant staff turned the #2 and #3 drying beds and repaired a light on the west side of the lab building.

11-05-2021: Plant staff changed out the De-sulphanator barrel at the North Hurley lift station.

11-08-2021: Cleaned out turbidity meter in the reclamation plant. Plant staff made a road for the engineer to get equipment in to do pot holing for the influent line project.

11-09-2021: Plant staff dug holes for the engineer for the influent line project.

11-10-2021: Plant staff changed out the drive belts for the #1 aeration blower. Chino Mines came out and collected effluent samples.

11-15-2021: Plant staff turned the #1, #2, and #3 drying beds.

11-16-2021: Plant staff sprayed and lubed the headworks barscreen.

11-18-2021: Plant staff turned the #1, #2, and #3 drying beds.

11-20-2021: Plant staff turned the #1, #2, and #3 drying beds.

11-21-2021: Pulled out the #2 drying bed and dewatered the #3 digester.

11-22-2021: Dumped the #2 digester to the #2 drying bed. Finished dewatering the #3 digester. The #1 aeration blower started to kick itself off, plant staff had to force it to run on hand.

11-29-2021: Plant staff turned the #1, #2, and #3 drying beds.

11-30-2021: Plant staff installed #2 aeration blower and tried to bring it up on line but blower kicks itself out.

## 2022 HOLIDAY SCHEDULE

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Monday, January 3, 2022 New Year's Day

Monday, January 17, 2022 Martin Luther King Day

Monday, February 21, 2022 President's Day

Friday, April 15, 2022 Spring Holiday

Monday, April 18, 2022 Spring Holiday

Monday, May 30, 2022 Memorial Day

Monday, July 4, 2022 July 4<sup>th</sup>

Monday, September 5, 2022 Labor Day

Monday, October 10, 2022 Indigenous People Day

Friday, November 11, 2022 Veteran's Day

Thursday, November 24, 2022 Thanksgiving

Friday, November 25, 2022 Thanksgiving

Monday, December 26, 2022 Christmas Day

## 2022 Regular Council Meeting Schedule

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January 10, 2022

January 24, 2022

February 14, 2022

February 28, 2022

March 14, 2022

March 28, 2022

April 11, 2022

April 24, 2022

May 9, 2022

May 23, 2022

June 13, 2022

June 27, 2022

July 11, 2022

July 25, 2022

August 8, 2022

August 22, 2022

September 12, 2022

September 26, 2022

October 11, 2022 Tuesday

October 24, 2022

November 14, 2022

December 12, 2022

**Ordinance No. 1-2021****SECTION 1: SHORT TITLE**

Sections 1 through 11 may be cited as the “Cannabis Regulation Ordinance”

**SECTION 2: RECITALS**

**WHEREAS**, The Cannabis Regulation Act (“CRA”) was signed into law on April 12, 2021.

**WHEREAS**, the CRA contains provisions authorizing the possession, consumption, purchase, processing, manufacturing and transport of cannabis and cannabis related products by an individual who is at least twenty-one (21) years of age.

**WHEREAS**, the CRA provides the regulatory framework for the licensing and operation of cannabis establishments which are authorized to engage in the retail sale, cultivation, manufacturing of cannabis and cannabis related products; and

**WHEREAS**, the CRA authorizes local jurisdictions to adopt rules regulating the time, place, and manner of cannabis businesses, so long as they do not conflict with the CRA or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit the density of licenses and operating times that are consistent with neighborhood uses; and

**WHEREAS**, the City of Bayard ("City") desires to adopt such rules regulating the time, place, manner of cannabis businesses, and other restrictions related to cannabis establishments, and

**WHEREAS**, the CRA authorizes cannabis manufacturers to use chemical extraction techniques or chemical synthesis, including the use of solvents such as butane, hexane, and other flammable gasses, to extract marijuana concentrate, which poses a threat to the health, safety, and welfare of the community and increases the responsibilities of law enforcement and City departments to respond to violations of state and local laws, including building, electrical, and fire codes, and

**WHEREAS**, this ordinance is adopted to protect the health, safety, and welfare of the community as it relates to the regulation and use of cannabis by imposing certain time, place, and manner restrictions on cannabis producers, retailers, and manufacturers, and cannabis consumption establishments.

**WHEREAS**, the City requires compliance with all applicable laws regarding the retail sale, cultivation, and manufacturing of cannabis and cannabis related products. Nothing in this Ordinance is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of cannabis or cannabis products in violation of any applicable law.

**SECTION 3: DEFINITIONS**

As used in the Cannabis Regulation Ordinance

A. "cannabis" or "marijuana":

(1) means all parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include:

(a) the mature stalks of the plant; 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, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or

(b) the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product;

B. "cannabis consumption area" means an area where cannabis products may be served and consumed;

C. "cannabis courier" means a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

D. "cannabis establishment" means:

- (1) a cannabis testing laboratory;
- (2) a cannabis manufacturer;
- (3) a cannabis producer;
- (4) a cannabis retailer;
- (5) a cannabis research laboratory;
- (6) a vertically integrated cannabis establishment;
- (7) a cannabis producer microbusiness; or
- (8) an integrated cannabis microbusiness;

E. "cannabis extract":



(1) means a product obtained by separating resins, tetrahydrocannabinols or other substances from cannabis by extraction methods approved by the division; and

(2) does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product;

F. "cannabis flowers" means only the flowers of a cannabis plant;

G. "cannabis manufacturer" means a person that:

(1) manufactures cannabis products;

(2) packages cannabis products;

(3) has cannabis products tested by a cannabis testing laboratory; or

(4) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments;

H. "cannabis producer" means a person that:

(1) cultivates cannabis plants;

(2) has unprocessed cannabis products tested by a cannabis testing laboratory;

(3) transports unprocessed cannabis products only to other cannabis establishments;  
or

(4) sells cannabis products wholesale;

I. "cannabis producer microbusiness" means a cannabis producer at a single licensed premises that possesses no more than two hundred total mature cannabis plants at any one time;

J. "cannabis product" means a product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients;

K. "cannabis research laboratory" means a facility that produces or possesses cannabis products and all parts of the plant genus *Cannabis* for the purpose of studying cannabis cultivation, characteristics or uses;

L. "cannabis retailer" means a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

M. "cannabis server permit" means an authorization that allows a person to directly offer, sell or serve cannabis or cannabis products as part of commercial cannabis activity in a cannabis consumption area;

N. "cannabis server permit education provider" means a person that provides cannabis server education courses and examinations;

O. "cannabis testing laboratory" means a person that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing;

P. "cannabis training and education program" means a practical or academic curriculum offered by a New Mexico public post-secondary educational institution designed to prepare students for participation in the cannabis industry;

Q. "chemical extraction" means the process of separating resins, tetrahydrocannabinols, or other substances from cannabis;

R. "chemical synthesis" means the artificial execution of useful chemical reactions to obtain one or several products that undergo a transformation when subjected to certain conditions;

S. "commercial cannabis activity":

(1) means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and

(2) does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis;

T. "consumer" means a person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale;

U. "Department" means the Regulation and Licensing Department of the State of New Mexico;

V. "homegrown" or "homemade" means grown or made for purposes that are not dependent or conditioned upon the provision or receipt of financial consideration;

W. "household" means a housing unit and includes any place in or around the housing unit at which an occupant of the housing unit produces, manufactures, keeps or stores homegrown cannabis or homemade cannabis products;

X. "immature cannabis plant" means a cannabis plant that has no observable flowers or buds;

Y. "integrated cannabis microbusiness" means a person that is authorized to conduct one or more of the following:

(1) production of cannabis at a single licensed premises; provided that the person shall not possess more than two hundred total mature cannabis plants at any one time;

- (2) manufacture of cannabis products at a single licensed premise;
- (3) sales and transportation of only cannabis products produced or manufactured by that person;
- (4) operation of only one retail establishment; and
- (5) couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

Z. "licensed premises" means a location that includes:

- (1) all enclosed public and private areas at the location that are used in the business and includes offices, kitchens, restrooms and storerooms;
- (2) all areas outside of a building that are specifically included in the license for the production, manufacturing, wholesale sale or retail sale of cannabis products; and
- (3) with respect to a location that is specifically licensed for the production of cannabis outside of a building, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases or has a right to occupy;

AA. "manufacture" means to compound, blend, extract, infuse, package or otherwise prepare a cannabis product;

BB. "public place" means a place to which the general public has access and includes hallways, lobbies and other parts of apartment houses and hotels that do not constitute rooms or apartments designed for actual residence; highways; streets; schools; places of amusement; parks; playgrounds; and places used in connection with public passenger transportation;

CC. "retail establishment" means a location at which cannabis products are sold to qualified patients, primary caregivers and reciprocal participants and directly to consumers;

#### SECTION 4: PUBLIC PROPERTY RESTRICTIONS

- A. The use, sale, cultivation, manufacture, production, storage or distribution of cannabis or cannabis products is prohibited on property that is occupied, owned, controlled or operated by the City.
- B. It is unlawful for an individual to use cannabis products on property that is occupied, owned, controlled, or operated by the City.
- C. It is unlawful for an individual to use cannabis products in any public place, excluding those locations that are properly licensed cannabis consumption lounges.

## SECTION 5: PERMIT PROCEDURES FOR CANNABIS RELATED ACTIVITIES.

### A. Cannabis related activities, approval and permit required.

(1) No person(s) or entity shall engage in the production, manufacture, or sale of cannabis or cannabis products in any zones without a valid Cannabis permit issued by the City of Bayard, permitting the specific cannabis-related activity or activities sought to be permitted on the premises. Cannabis permits are not assignable or transferable.

(2) Application and fee. Anyone wishing to conduct cannabis-related business activities must submit a completed application to the City. The application shall be returned to the City Clerk accompanied by the appropriate application fee for the use(s) to be permitted, and must set forth, at a minimum:

(a) the cannabis-related activity or activities appropriately licensed by the State Regulation and Licensing Department pursuant to the Cannabis Regulation Act.

(b) applications for permits submitted prior to receiving a temporary or final license from the Department will be refused on the basis of an incomplete application.

## SECTION 6: LOCATION OF CANNABIS ESTABLISHMENTS

- A. Cannabis establishments are restricted to areas zoned as general commercial or industrial within the City of Bayard Zoning Ordinance.
- B. No commercial, retail, or medical cannabis establishments may conduct operations in areas zoned for residential use.

## SECTION 7: TYPES OF CANNABIS ESTABLISHMENTS

A. **Cannabis Production.** This subsection shall apply to all applicants seeking a permit to allow for the growth of cannabis plants (i.e. cannabis producer) in quantities greater than twelve (12) mature cannabis plants for commercial purposes. Any individual seeking to grow more than twelve (12) mature cannabis plants for commercial purposes must obtain a permit to operate within the City of Bayard pursuant to this subsection.

1. The applicant shall provide:

- (a) a survey plat depicting the proposed location for the growth of cannabis, which identifies the total area to be covered.
- (b) a map that identifies the location of the business property.
- (c) the document(s) provided to the Regulation and Licensing Division (RLD) which applicant(s) utilized to apply for a cannabis producer license pursuant to the Cannabis Regulation Act and the rules adopted by the Cannabis Control Division of RLD. In lieu thereof,

applicants may provide a copy of the current, valid license issued to the applicant by RLD. Temporary licenses are acceptable for purposes of this subsection. However, applicants will need to provide supplemental proof that a final license is issued by RLD in order to satisfy this requirement.

1. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the status of their license application through RLD, the City Clerk shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.
2. The City Clerk may issue a permit only upon receipt of proof that the applicant(s) received a current, valid license issued by RLD, and compliance with the additional permitting requirements set forth by the City herein.

**B. Cannabis Manufacturing.** This subsection shall apply to all applicants seeking a permit to allow for the manufacture of cannabis products, packaging of cannabis products, and the purchase, acquisition, sale or transport of wholesale cannabis products to other cannabis establishments.

1. The applicant shall provide:
  - (a) a survey plat depicting the proposed location for the manufacture of cannabis, which identifies the total area to be covered.
  - (b) a map that identifies the location of the business property.
  - (c) the document(s) provided to the Regulation and Licensing Division (RLD) which applicant(s) utilized to apply for a cannabis manufacturer license pursuant to the Cannabis Regulation Act and the rules adopted by the Cannabis Control Division of RLD. In lieu thereof, applicants may provide a copy of the current, valid license issued to the applicant by RLD. Temporary licenses are acceptable for purposes of this subsection. However, applicants will need to provide supplemental proof that a final license is issued by RLD in order to satisfy this requirement.

1. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the status of their license application through RLD, the City Clerk shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.
2. The City Clerk may issue a permit only upon receipt of proof that the applicant(s) received a current, valid license issued by RLD, and compliance with the additional permitting requirements set forth by the City herein.

C. **Cannabis Retailers** This subsection shall apply to all applicants seeking a permit to allow for the sale of cannabis and cannabis products to qualified patients, primary caregivers, reciprocal participants, or directly to consumers.

1. The applicant shall provide:
  - (a) a survey plat depicting the proposed location for the manufacture of cannabis, which identifies the total area to be covered.
  - (b) a map that identifies the location of the business property.
  - (c) the document(s) provided to the Regulation and Licensing Division (RLD) which applicant(s) utilized to apply for a cannabis retailer license pursuant to the Cannabis Regulation Act, and the rules adopted by the Cannabis Control Division of RLD. In lieu thereof, applicants may provide a copy of the current valid license issued to the applicant by RLD. Temporary licenses are acceptable for purposes of this subsection. However, applicants will need to provide supplemental proof that a final license is issued by RLD in order to satisfy this requirement.

1. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the status of their license application through RLD, the City Clerk shall inform the applicant of the deficiencies in writing and shall take no

further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.

2. The City Clerk may issue a permit only upon receipt of proof that applicant(s) received a current, valid license issued by RLD, and compliance with the additional permitting requirements set forth by the City herein.

## SECTION 8: OPERATIONAL REQUIREMENTS

- A. Cannabis establishments must comply with all security requirements and restrictions imposed by the Cannabis Regulation Act and the rules adopted by the Cannabis Control Division of RLD.
- B. Cannabis producers must utilize odor mitigation technology or techniques to mitigate the odor created by cannabis plants and products so as not to create a nuisance to neighboring properties or establishments.
- C. Cannabis establishments may not display products, engage consumers or consummate sales outside of a fully enclosed building or structure.
- D. Cannabis establishments shall provide and maintain at each premises a digital video surveillance system with a minimum camera resolution of 1280 x 720 pixels. The digital video surveillance system shall further comply with the following requirements:
  - (1) the digital video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance;
  - (2) each camera shall be permanently mounted and in a fixed location;
  - (3) cameras shall be placed in a location that allows the camera to clearly record activity occurring on the licensed premises that digital video surveillance is required under subsection E of this section, and shall provide a clear and certain identification of any person and activities in those areas.
- E. Areas of digital video surveillance: Areas that shall be recorded on the digital video surveillance system include the following:
  - (1) areas where cannabis and cannabis products are cultivated, produced, manufactured, weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the licensed premises;
  - (2) limited-access areas;
  - (3) areas storing a digital video surveillance-system storage device;
  - (4) entrances and exits to the licensed premises; and
  - (5) all point of sale (POS) locations to capture sale transactions.
- F. Digital Video Surveillance Recording: Licensees shall comply with the following digital video surveillance recording requirements:

- (1) cameras shall record continuously 24 hours per day, or may be motion activated, and at a minimum of 15 frames per second (FPS);
  - (2) the physical media or storage device on which digital video surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft;
  - (3) digital video surveillance recordings shall be kept for a minimum of 30 days and recordings of theft or security incidents as set forth in Subsection N of 16.8.2.8 NMAC shall be kept for a minimum of 12 months;
  - (4) digital video surveillance recordings are subject to inspection by the division, and shall be kept in a manner that allows the division to view and obtain copies of the recordings at the licensed premises immediately upon request;
  - (5) upon request, licensees shall send or otherwise provide copies of the recordings to the division within 48 hours;
  - (6) recorded images shall clearly and accurately display the time and date of the recording; and
  - (7) time shall be measured in accordance with the United States national institute standards and technology standards.
- E. Cannabis establishments must provide for off-site disposal of cannabis products and other solid waste in compliance with state, federal, and local law.
  - F. Hours of operation for Cannabis Retailers shall be limited to the time period between 7:00 a.m. until midnight.
  - G. Cannabis establishments shall not provide drive-thru services for delivery of cannabis products.

## SECTION 9: STANDARDS FOR DESIGNATED CANNABIS CONSUMPTION AREAS

Cannabis establishments having a Designated Cannabis Consumption Area on site shall comply with the Cannabis Regulation Act, the Dee Johnson Clean Indoor Air Act, and the rules adopted by the Cannabis Control Division of RLD. They must also satisfy the following standards required by the City:

- A. The Designated Cannabis Consumption Area shall be located in a restricted access area that employees are not required to enter as a condition of their employment.
- B. The Designated Cannabis Consumption Area shall have signage to designate established cannabis consumption areas.
- C. The Designated Cannabis Consumption Area shall have a separate heating, ventilation, and air conditioning (HVAC) system such that none of the air in the Designated Cannabis Consumption Area will be recirculated into other parts of the Cannabis establishment premises.
- D. The Designated Cannabis Consumption Area shall be completely separated from the remainder of the premises, and all doors leading to the Designated Cannabis Consumption Area shall be self-closing.

## SECTION 10: VIOLATIONS AND PENALTIES



- A. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture, store, or transport cannabis or cannabis products, if the person fails to meet all requirements in this ordinance, the Cannabis Regulation Act NMSA 1978 Sections 26-2C-1 through 42, and the rules adopted by the Cannabis Control Division of RLD.
- B. The sale of homegrown or homemade cannabis and cannabis products without a valid license issued by the State Regulation and Licensing Department is prohibited.
- C. Any person found in violation of this ordinance is subject to a fine of up to \$500 and/or imprisonment for a period of up to 90 days in jail.
- D. An individual or business may be charged with multiple offenses for continuing violations of this ordinance. To that end, violations occurring on separate calendar days shall constitute separate offenses.

#### SECTION 11: SEVERABILITY

If any section, subsection, paragraph, phrase, or other portion of this ordinance shall be declared invalid for any reason whatsoever by a court or competent jurisdiction, then such decision shall not affect the validity or enforceability of the remaining portions of this ordinance.

PASSED, APPROVED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

## ORDINANCE 2-2021

AN ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 28  
OF THE BAYARD CODE OF ORDINANCES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BAYARD, NEW  
MEXICO, that

Sec. 28-6. Possession of up to eight ounces of marijuana prohibited; penalty be  
rescinded in its entirety.

Language to be removed from the City of Bayard Code of Ordinances reads as follows:

**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)

EFFECTIVE DATE

This ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Chon S. Fierro  
Mayor

ATTEST:

\_\_\_\_\_  
Kristina Ortiz, MMC  
Clerk Treasurer