



ORDINANCE 25-04

AN ORDINANCE AMENDING THE REGULATIONS OF RECREATIONAL CANNABIS ESTABLISHMENTS, OTHER CANNABIS BUSINESSES, PRODUCTION OF CANNABIS AND CANNABIS PRODUCTS REPEALING EXISTING ORDINANCE 22-06.

WHEREAS, the Cannabis Regulation Act has authorized a variety of uses related to the legalization of medical and recreational commercial cannabis activities, which have the potential to expand the legal Cannabis market; and

WHEREAS, Cannabis cultivation, production, manufacturing, and Retail Sales can involve the use of significant amounts of energy and water and require security and other measures to reduce the risk of theft or other diversion to the illegal Cannabis market, including possession and use by persons under the age of twenty-one; and

WHEREAS, Cannabis is an intoxicating drug, making it appropriate to regulate the hours during which Cannabis products may be sold and the areas in which Cannabis products may be consumed; and

WHEREAS, the smoking of Cannabis products may create health risks due to exposure to secondhand smoke and vaporized Cannabis concentrates; and

WHEREAS, Cannabis cultivation, production, manufacturing can create strong and offensive odors; and

WHEREAS, limiting the density of Cannabis establishments, Cannabis retailers and Cannabis consumption areas is necessary to ensure that Cannabis activities are not unduly concentrated and do not crowd out other uses; and

WHEREAS, the Governing Body of the Town of Taos, New Mexico, finds that it will promote the public health, safety, and welfare to enact provisions regulating the use of Cannabis in the Town of Taos.

THEREFORE, BE IT ORDAINED AND ENACTED BY THE GOVERNING BODY OF THE TOWN OF TAOS, NEW MEXICO:

SECTION 1. DEFINITIONS.

A. Cannabis.

- 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.** An area of a licensed premise where cannabis products may be served and consumed;

C. **Cannabis Courier.** A person that transports cannabis products 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;
- (8) an integrated cannabis microbusiness; or
- (9) a cannabis consumption area;

E. **Cannabis Manufacturer.** A person that:

- (1) manufactures cannabis products;
- (2) packages cannabis products for resale; or
- (3) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments;

F. **Cannabis Producer.** A person that:

- (1) cultivates cannabis plants;
- (2) transports unprocessed cannabis products only to other cannabis

establishments; or
(3) sells cannabis products wholesale;

G. Cannabis Product. A product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients;

H. Cannabis Research Laboratory. 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;

I. Cannabis Retailer. A person that sells cannabis products to consumers;

J. Cannabis Testing Laboratory. A Facility that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing;

K. Commercial Cannabis Activity:

(1) means the cultivation, production, possession, manufacture, storage, testing, researching, packaging and 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 or to the personal cultivation or use of cannabis;

L. Consumer. A person twenty-one years of age or older who legally purchases, acquires, owns, possesses or uses a commercial cannabis product not for resale or a person who holds a medical cannabis program registry identification card issued by the State of New Mexico Department of Health or is a reciprocal patient;

M. County. The area lying within the corporate boundaries of the County of Taos and outside the boundaries of any incorporated municipality;

N. Cultivation. Any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis;

O. Facility. A building, space or grounds licensed for the production, storage, testing, manufacturing, distribution, sale or consumption of cannabis products;

P. Government Facility. A facility, agency or area used for public purposes, and owned or operated by an instrumentality or agency of federal, state or local government;

Q. Homegrown or Homemade. Grown or made for purposes that are not for resale;

R. Household. A housing unit, including any space 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;

S. Integrated Cannabis Microbusiness. A person that is authorized to conduct one or more of the following:

- (1) production of cannabis at a single licensed premise, provided that the person shall not possess more than the number of mature cannabis plants specified by the New Mexico Cannabis Regulation Act, 26-2C-1 NMSA *et seq.* 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 or another cannabis producer or integrated cannabis microbusiness;
- (4) operation of only one retail establishment; and
- (5) couriering of cannabis products to consumers;

T. Licensed Premises. A location that includes:

- (1) all enclosed public and private areas at the location that are used in the business and includes cannabis consumption areas, offices, kitchens, restrooms and storerooms;
- (2) all areas outside and inside of a building that are specifically included in the license;
- (3) all areas of a standalone cannabis consumption area, including retail and other areas, whether in enclosed or outside spaces, and including private or members-only clubs where cannabis products are available for sale or consumption; and
- (4) with respect to a location that is specifically licensed for the production of cannabis outside of a building, the amount of land that the licensee owns, leases or has a right to occupy that is identified in the application for licensure for cultivation of cannabis; provided that the licensed premises may be decreased but shall not be increased without permission of the State of New Mexico Regulation and Licensing Department, Cannabis Control Division;

U. Manufacture. To compound, blend, extract, infuse, package and label or otherwise prepare a cannabis product under the following four classes of licensure;

- (1) Class I: A licensee that only packages or repackages cannabis products, or labels or relabels a cannabis product container;
- (2) Class II: A licensee that conducts Class I activities, and/or manufactures edible products or topical products using infusion processes, or other types of cannabis

- products other than extracts or concentrates and does not conduct extractions;
- (3) Class III: A licensee that conducts Class I, Class II activities, and/or extracts using mechanical methods or nonvolatile solvents; and
 - (4) Class IV: A licensee that conducts Class I, Class II, and Class III activities, and/or extracts using volatile solvents or supercritical CO₂.

V. **Medical Cannabis.** Cannabis products used by a qualified patient or reciprocal participant in accordance with the Lynn and Erin Compassionate Use Act;

W. **Medical Cannabis Program.** The program created pursuant to the Lynn and Erin Compassionate Use Act;

X. **Medical Cannabis Registry.** The system by which the New Mexico State Department of Health approves or denies applications and issues and renews registry identification cards for qualified patients and primary caregivers;

Y. **Mobile, Portable or Temporary Unit.** Any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which items are ordinarily vended, served, or offered for sale;

Z. **Public Place.** Any place to which the general public has access;

AA. **Qualified Patient.** A resident of New Mexico who holds a registry identification card pursuant to the Lynn and Erin Compassionate Use Act;

BB. **Reciprocal Participant.** A person who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory or commonwealth of the United States in which the person resides or a person who holds proof of enrollment by a governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program;

CC. **Residence.** A housing unit, including any space in or around the housing unit where someone lives;

DD. **Retail Establishment.** A location at which cannabis products are sold to consumers;

EE. **Smoke.** To inhale, exhale, burn or carry any lighted or heated device or pipe or any other lighted or heated cannabis products intended for inhalation, whether natural or synthetic, in any manner or in any form, including use of an e-cigarette that creates an aerosol or vapor;

FF. **Town.** Means the Town of Taos, New Mexico;

GG. **Unprocessed.** Unaltered from an original, raw or natural state;

HH. **Vertically Integrated Cannabis Establishment.** A person that is authorized to act as one or more of the following:

- (1) a cannabis courier;
- (2) a cannabis manufacturer;
- (3) a cannabis producer; and
- (4) a cannabis retailer; and

II. Taos Historic District Overlay Zone ("HOZ") means that area described in Section 16.16.220 and subsequent subsections of the Town Code.

SECTION 2. LOCATION

(A) **Separation:**

1. No cannabis producer or cannabis manufacturer located outside of the M-1 "Light Manufacturing" Zone shall be located within three hundred feet (300') of a residence or the Historic Taos Plaza.
2. No cannabis establishment located outside of the M-1 "Light Manufacturing" Zone shall be located within three hundred feet (300') of another cannabis establishment.
3. There shall be no separation restriction between a cannabis retailer, a cannabis producer, a Class I, Class II and/or Class III cannabis manufacturer, as defined by Section I, Subsection U of this Ordinance, an integrated cannabis microbusiness or a vertically integrated cannabis establishment located within the M-1 "Light Manufacturing" Zone provided that cannabis retailers shall not be located within three hundred feet (300') of another cannabis retailer.
4. Any cannabis producer, cannabis manufacturer, integrated cannabis microbusiness or vertically integrated cannabis establishment shall implement and continuously operate odor mitigation systems and practices that incorporate all reasonable and technologically feasible measures. Such measures shall be designed and maintained to effectively prevent cannabis-related odors from unreasonably interfering with the comfortable enjoyment of property by neighboring businesses and residents.
5. No cannabis establishment engaged in Class IV activities, as defined by Section I, Subsection U of this Ordinance, shall be located within one thousand feet (1,000') of another cannabis establishment, a residence, school and/or daycare.
6. Cannabis establishments may be co-located.

- (B) **Minimum separation distance from schools and daycare centers.** A cannabis establishment must maintain a separation distance of three hundred (300') feet from any school or daycare center that is in existence at the time the cannabis establishment is licensed by the state.

- (C) **Measurement.** For the purposes of this Ordinance, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the cannabis establishment is located to the nearest point on any property line of a residence or cannabis establishment.
- (D) **Exception for Subsequent Uses of Nearby Property.** A cannabis establishment, lawfully operating under this Ordinance, shall not be deemed to be in violation of the location restrictions set forth above solely because a specific use subsequently locates within the minimum required distance of the cannabis establishment, or when any other lot or tract within the required minimum distance of the cannabis establishment subsequently becomes a school or daycare center.

SECTION 3. OPERATING TIMES.

Cannabis retailers and cannabis consumption areas may only operate during the following hours:

- (A) **Cannabis Consumption Areas.** Products may only be served and consumed in cannabis consumption areas between the hours of 7:00 a.m. and midnight Monday through Sunday.
- (B) **Cannabis Retailers.** Cannabis retailers may only sell cannabis products for off-site consumption between the hours of 7:00 a.m. and midnight Monday through Sunday.

SECTION 4. CANNABIS CONSUMPTION AREAS.

Cannabis consumption areas are subject to the following:

- (A) General Operating Requirements.
 - (1) Cannabis consumption areas, which may be permitted as indoor or outdoor facilities, must be operated on the same licensed premises as, and in conjunction with, a Cannabis Retailer or Integrated Cannabis Microbusiness holding a valid Town of Taos Cannabis Establishment Permit.
 - (2) All cannabis consumption activities and cannabis products must be shielded from public view from outside the licensed premises. Outdoor consumption areas shall be enclosed by a continuous sight-obscuring wall or fence, not less than six (6) feet in height, designed to prevent visibility into the area and to control access.
- (B) Access and Age Verification: Access to any cannabis consumption area shall be strictly limited to:
 - (1) Persons twenty-one (21) of age or older, whose age has been verified by valid, unexpired government-issued photo verification.
 - (2) Persons at least eighteen (18) years of age, whose age and status have been

verified by a valid, unexpired medical cannabis program registry identification card or as a valid reciprocal participant.

(C) Regulation of Smoke, Vaping, and Odor Control:

- (1) Indoor Areas for Smoking/Vaping: The smoking or vaping of cannabis products within an indoor cannabis consumption area shall be permitted only if such area is a standalone building or a physically separated and independently ventilated room, constructed and operated in a manner that prevents smoke or vapor from migrating into other indoor areas, including any smoke-free workplace or public place, consistent with the Dee Johnson Clean Indoor Air Act.
- (2) Outdoor Areas for Smoking/Vaping: The smoking or vaping of cannabis products within a designated outdoor cannabis consumption area shall be permitted only if the area is designed, located, and operated to effectively prevent cannabis smoke, vapor, and associated odors from migrating beyond the property line to an extent that creates a public nuisance or unreasonably interferes with the use and enjoyment of neighboring properties. The Town may require specific odor and smoke drift mitigation measures, appropriate to the site and scale of operation, to achieve this standard.
- (3) Non-Inhalation Consumption: Consumption of cannabis products by means other than smoking or vaping is permitted in any designated indoor or outdoor consumption area, provided all other requirements of this Section are met.

SECTION 5. BUSINESS REGISTRATION

Any person seeking to become engaged in commercial cannabis activities must first obtain a Town of Taos Business Registration prior to applying for a commercial cannabis license from the New Mexico Department of Regulation and Licensing, Cannabis Control Division

SECTION 6. CANNABIS ESTABLISHMENT PERMIT

Any person seeking to operate a cannabis establishment in the Town of Taos may obtain a cannabis establishment permit under the following conditions:

- A. The permit shall be obtained from the Town of Taos Code Administrator.
- B. The cost of the permit shall be \$250 for the initial permit, and \$100 for the annual renewal of the permit.
- C. The following information shall be required from the applicant for a permit under this Ordinance:
 - (1) The name, address, and business organization of the applicant and location the applicant intends to transact business, as well as the specific business to be transacted.
 - (2) If the applicant is an individual, the mailing address and phone number of the applicant.

- (3) If the applicant is a partnership, the names, mailing addresses, and phone numbers of all partners.
 - (4) If the applicant is a Limited Liability Company, the state of organization, address of the resident agent in New Mexico sufficient for service of process, the name of the managing member(s) together with mailing address, and the name, mailing address and phone number of each member of the company.
 - (5) If the applicant is a corporation, the state of incorporation, the name, phone number, and address of the registered agent in New Mexico sufficient for service of process, and the name, mailing address, and phone number of each officer or director of the corporation.
 - (6) Prior to the issuance of a permit, any Limited Liability Company or corporation shall provide a certificate of good standing.
 - (7) The applicant shall provide Federal and State tax identification numbers.
 - (8) The applicant shall provide a copy of its approved license from the New Mexico Regulation and Licensing Department, Cannabis Control Division.
- D. Prior to issuance of a permit, the Code Administrator or designee shall confirm compliance with zoning, distancing and fencing requirements provided in Section 2 (Location) and Section 7 (Fencing).
- E. No permit shall be issued to a temporary or portable building.
- F. Failure to meet the conditions above will result in non-issuance of a permit.
- G. If denial of an application for a new permit or renewal permit is deemed necessary by the Code Administrator, written notice of the decision shall be provided to the applicant.
- H. Any person or entity denied a permit may, within ten (10) working days of the receipt of notice of the denial, file an appeal with the Governing Body of the Town of Taos. The Notice of Appeal shall be delivered to the Town Manager and a hearing shall be scheduled within sixty (60) days of receipt of the Notice. The applicant shall follow the appeal Procedure outlined below. The appeal application fee shall be \$100.00. The appeal shall be *de novo* and the burden of proof shall be on the applicant to establish entitlement to a permit. The Governing Body shall make written findings of fact and conclusions of law supporting its decision. Any further appeal shall be to the District Court, in accordance with NMSA 1978, Section 39-3-1.1 and Rule 1-074 NMRA.
1. Upon the filing of a notice of appeal, the Code Administrator, within seven (7) working days, shall notify the Mayor of an appeal from the decision of the Code Administrator.
 2. The Code Administrator or Designee shall schedule a public hearing on the appeal. The public hearing shall be held not less than thirty (30) days nor more than sixty (60) days after the date upon which the notice of appeal was filed.

3. Notice of the public hearing on the appeal shall be published in a newspaper of general circulation in the county.
 4. Notice shall be given to property owners within three hundred feet (300') of the subject property as per Section 16.12.040.5 Application Procedures.
 5. Proof of notice shall be filed with the Code Administrator.
 6. Failure to give proper notice or file proper proof thereof, shall cause the appeal to be withdrawn.
 7. Operation of a cannabis establishment without a permit is a violation of this Ordinance.
- I. A Cannabis Establishment Permit issued by the Town of Taos under this Section shall immediately become null and void, without further action by the Town, if the permittee's corresponding license issued by the New Mexico Cannabis Control Division for the same cannabis activity and premises is revoked for any reason or expires. The permittee shall immediately cease all cannabis operations authorized by the Town permit upon such state license revocation or expiration.

SECTION 7. FENCING AND SECURITY

- A. Each cannabis producer, cannabis research laboratory, and cannabis testing laboratory is required to erect and maintain a lockable fence of sturdy construction measuring at least six feet in height enclosing and screening from view the area where cannabis is located. The enclosure shall remain securely locked during non-business hours.
- B. All State licensed and permitted facilities engaged in the retail sale, production, consumption, research, storage or handling of recreational or medical marijuana shall install and maintain security to include perimeter entry alarm and video surveillance systems with remote 24-hour monitoring and shall provide and maintain current information on on-site systems, security and alarm monitoring and premises contact information on record (registered) with the Town of Taos Police Department and Taos County E-911 Combined Dispatch.

SECTION 8. PROHIBITIONS

- A. The sale, service, distribution, or any other commercial cannabis activity from any mobile, portable, or temporary unit is prohibited.
- B. No cannabis establishment shall operate as a drive-through facility. For the purposes of this subsection, a "drive-through facility" is defined as a cannabis establishment, or any distinct portion thereof, that is primarily designed, structurally configured, or operated to allow patrons to order, make payment, and/or receive cannabis products while remaining in their motor vehicles, typically involving features such as, but not limited to, a dedicated drive-up lane, service window, menu board accessible from a vehicle, or similar specialized infrastructure for vehicular service.

- C. Smoking of cannabis products in a public place, except as permitted by state law, is prohibited.

SECTION 9. EXISTING MEDICAL CANNABIS ESTABLISHMENTS

Any medical cannabis establishment existing as of the date of the passage of this Ordinance shall not be required to comply with the location requirements of Section 2. However, the owners of such businesses shall, within 90 days of the effective date of this Ordinance, submit an application for a cannabis establishment permit.

SECTION 10. ZONING.

- A. A Cannabis Retailer shall be restricted to the following Zones: CBD “Central Business District” (“CBD”), C-1 “Neighborhood Commercial” Zone, C-2 “General Commercial” Zone, HCPD “Highway Corridor Protection District” and M-1 “Light Manufacturing” Zone.
- B. A Class I Manufacturer shall be restricted to the following Zones: CBD “Central Business District,” C-1 “Neighborhood Commercial” Zone, C-2 “General Commercial” Zone, HCPD “Highway Corridor Protection District” and M-1 “Light Manufacturing” Zone.
- C. A Class II and/or a Class III Cannabis Manufacturer shall be restricted to the following Zones: M-1 “Light Manufacturing” Zone, C-1 “Neighborhood Commercial” Zone or C-2 “General Commercial” Zone.
- D. A Class IV Cannabis Manufacturer shall be restricted to the M-1 “Light Manufacturing” Zone.
- E. A Cannabis Producer shall be restricted to the following Zones: M-1 “Light Manufacturing” Zone, C-1 “Neighborhood Commercial” Zone or C-2 “General Commercial” Zone.
- F. An Integrated Cannabis Microbusiness may establish its licensed premises in the following Zones: CBD “Central Business District” (“CBD”), C-1 “Neighborhood Commercial” Zone, C-2 “General Commercial” Zone, HCPD “Highway Corridor Protection District”, or M-1 “Light Manufacturing” Zone. Notwithstanding the foregoing, each specific commercial cannabis activity conducted by the Integrated Cannabis Microbusiness must independently comply with all zoning provisions, including permitted zones and any specific location or operational requirements, that are applicable to such individual activity as set forth in Subsections A, B, C, D, or E of this Section 10, and any other relevant conditions within this Ordinance.
- G. A Vertically Integrated Cannabis Establishment may establish its licensed premises in the following Zones: CBD “Central Business District” (“CBD”), C-1 “Neighborhood Commercial” Zone, C-2 “General Commercial” Zone, HCPD “Highway Corridor Protection District”, or M-1 “Light Manufacturing” Zone. Notwithstanding the foregoing, each specific commercial cannabis activity conducted by the Integrated Cannabis Microbusiness must independently comply with all zoning provisions, including permitted zones and any specific location or operational requirements, that are applicable to such individual activity as set forth in Subsections A, B, C, D, or E of this Section 10, and any other relevant conditions within this Ordinance.
- H. Any licensee under this provision is subject to all provisions of this ordinance.

SECTION 11. SAVINGS CLAUSE.

Should any portion of this Ordinance be declared unenforceable after a final, non-appealable decision of a court of competent jurisdiction, the remaining provisions of this Ordinance shall, to the extent feasible, remain in full force and effect.

SECTION 12. EMERGENCY CLAUSE AND EFFECTIVE DATE.

Because of the urgent need for regulation pursuant to this Ordinance, the Governing Body declares that it is necessary for the public peace, health and safety that this Ordinance take effect immediately after passage when it is recorded in the book kept by the Town for that purpose and authenticated by the signature of the Town Clerk. In the event a court of competent jurisdiction finds that the passage of this Ordinance did not constitute an emergency, then the effective date of this Ordinance shall be 30 days after this Ordinance is recorded with the Town Clerk.

PASSED, APPROVED AND ADOPTED this 27th day of May 2025, at the Regular Meeting of the Town Council by the following vote:

Mayor Pro Tem Marietta S. Fambro
Councilmember Darien D. Fernandez
Councilmember Corilia I. Ortega
Councilmember Genevieve Oswald

TOWN OF TAOS

DRAFT

Pascualito M. Maestas, Mayor

ATTEST:

APPROVED AS TO FORM:

Denise Martinez, Town Clerk

Jessica Nixon, Town Attorney