

CANNABIS REGULATIONS

§ 150.235 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANNABIS. All parts of the plant genus *Cannabis* containing a delta-9-tetrahydrocannabinol concentration of more than 0.3% 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 does not include:

(1) 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

(2) The weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product.

CANNABIS CONSUMPTION AREA. An area, licensed by the State Cannabis Control Division, where cannabis products may be served and consumed.

CANNABIS COURIER. A person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

CANNABIS ESTABLISHMENT. Includes the following:

- (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.

CANNABIS MANUFACTURER.

- (1) A person that:
 - (a) Manufactures cannabis products;
 - (b) Packages cannabis products;
 - (c) Has cannabis products tested by a cannabis testing laboratory; or
 - (d) Purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments.
- (2) The Division may license four classes of manufacture.

(a) **CLASS I.** A licensee that only packages or repackages cannabis products, or labels or relabels the cannabis product container.

(b) **CLASS II.** A licensee that conducts Class I activities and 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.

(c) **CLASS III.** A licensee that conducts Class I and Class II activities and extracts using mechanical methods or nonvolatile solvents.

(d) **CLASS IV.** A licensee that conducts Class I, Class II and Class III activities and extracts using volatile solvents or supercritical CO₂.

CANNABIS PRODUCER. 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.

CANNABIS PRODUCER MICROBUSINESS. A cannabis producer at a single licensed premises that possesses not more than 200 total mature cannabis plants at any one time.

CANNABIS PRODUCT. A product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients.

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.

CANNABIS RETAILER. A person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

CANNABIS TESTING LABORATORY. A person that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing.

DAYCARE. A facility required to be licensed by the state that provides care, services and supervision for less than 24 hours a day to children.

INTEGRATED CANNABIS MICROBUSINESS. 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 200 total mature cannabis plants at any one time;
- (2) Manufacture of cannabis products at a single licensed premises;
- (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.

SCHOOL. The part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either pre-kindergarten, elementary, middle school or high school or any combination of those and includes a charter school.

VERTICALLY INTEGRATED CANNABIS ESTABLISHMENT. A person that is authorized to act as any of the following:

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

(Ord. 2010-018, passed 11-18-2021; Ord. 2010-018, passed 2-16-2022)

§ 150.236 CANNABIS BUSINESS REGISTRATION.

All businesses operating within city limits are required by §§ 110.35 through 110.41 to apply for a business registration with the city and to pay a business registration fee. Business registrations shall not be issued to any cannabis establishment, cannabis consumption area or cannabis courier unless the applicant has a provisional license issued by the State Cannabis Control Division for the business activities in which the applicant is engaged or in which the applicant proposes to engage.

(Ord. 2010-018, passed 11-18-2021; Ord. 2010-018, passed 2-16-2022) Penalty, see § 150.999

§ 150.237 CANNABIS ZONING.

(A) The purpose of this section is to ensure that the premises of all cannabis establishments and cannabis couriers are limited to those zoning districts where similar uses have already been identified in the land use classification matrixes found in §§ 150.205 and 150.206.

(B) The below cannabis activities correspond with the identified uses from the land use classification matrixes found in §§ 150.205 and 150.206.

(1) Cannabis testing laboratories and cannabis research laboratories shall be treated the same as “professional and scientific offices and services”.

(2) Cannabis manufacturers shall be treated the same as “agricultural packaging and warehousing,” “food and fiber processing” and “manufacturing”.

(3) Cannabis producers and cannabis producer microbusinesses which cultivate cannabis plants outdoors shall be treated the same as “dairies and related operations”.

(4) Cannabis producers and cannabis producer microbusinesses which cultivate cannabis plants indoors shall be treated the same as “greenhouses and nurseries”.

(5) Cannabis retailers shall be treated the same as “bars and lounges”.

(6) Cannabis couriers shall be treated the same as “ground transportation terminals”.

(C) (1) Vertically integrated cannabis establishments and integrated cannabis microbusinesses may only be located in a zoning district in which each of the authorized activities proposed for the premises is allowed, whether as a permitted use or pursuant to a conditional use permit.

(2) For example, a vertically integrated cannabis establishment that is a cannabis manufacturer, cannabis producer cultivating cannabis plants outdoors and a cannabis retailer could not locate in an area zoned CC-1 (community commercial) unless an appropriate PUD Type 2 overlay zone has been established because the outdoor cultivation of cannabis is only allowed in areas with PUD Type 2 overlay zoning. See Community and Village District land use classification matrix in § 150.206.

(Ord. 2010-018, passed 11-18-2021; Ord. 2010-018, passed 2-16-2022) Penalty, see § 150.999

§ 150.238 CANNABIS CONSUMPTION AREAS.

(A) The smoking of cannabis in public is prohibited within city limits except in cannabis consumption areas.

(B) A cannabis consumption area may be located inside any cannabis establishment; provided, however, that smoking of cannabis products in such consumption areas is only allowed if the cannabis consumption area occupies a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act, NMSA, Chapter 24, Article 16.

(C) Unless licensed pursuant to the Lynn and Erin Compassionate Use Act, being NMSA §§ 26-2B-1 et seq., cannabis consumption areas shall be restricted to persons 21 years of age and older.

(Ord. 2010-018, passed 11-18-2021; Ord. 2010-018, passed 2-16-2022) Penalty, see § 150.999

§ 150.239 MINIMUM DISTANCES FROM SCHOOLS AND DAYCARE CENTERS.

(A) No cannabis establishment, cannabis consumption area or cannabis courier may be located within 300 feet of a school or daycare center in existence at the time the cannabis establishment, cannabis consumption area or cannabis courier was licensed.

(B) For the purposes of this section, all measurements for determining the location of a cannabis establishment or cannabis consumption area in relation to schools or daycare centers shall be the shortest direct line between the actual limits of the real property of the school or daycare center and the actual limits of the real property of the proposed cannabis establishment or cannabis consumption area.

(C) Any cannabis establishment, cannabis consumption area or cannabis courier legally existing within the city by virtue of a license issued by the State Cannabis Control Division prior to the effective date of this subchapter shall not be required to comply with these minimum distance requirements.

(Ord. 2010-018, passed 11-18-2021; Ord. 2010-018, passed 2-16-2022) Penalty, see § 150.999

§ 150.240 MINIMUM DISTANCES FROM OTHER RETAILERS AND CONSUMPTION AREAS.

(A) Cannabis retailers and cannabis consumption areas may not be located within 200 feet of another cannabis retailer or cannabis consumption area.

(B) For purpose of this section, all measurements for determining the location of cannabis retailers or cannabis consumption areas in relation to one another shall be the shortest direct line between the actual limits of the real property of the cannabis retailers or cannabis consumption areas.

(C) Any cannabis retailers or cannabis consumption areas legally existing within the city by virtue of a license issued by the State Cannabis Control Division prior to the effective date of this subchapter shall not be required to comply with these minimum distance requirements.

(Ord. 2010-018, passed 11-18-2021; Ord. 2010-018, passed 2-16-2022) Penalty, see § 150.999

§ 150.241 HOURS OF OPERATION.

(A) Cannabis products may only be served, sold and consumed within cannabis consumption areas between the hours of 7:00 a.m. to 10:00 p.m., Monday to Sunday.

(B) Cannabis retailers, including vertically integrated cannabis establishments and integrated cannabis microbusinesses involved in retail, may only sell cannabis products between the hours of operation of 7:00 a.m. to 10:00 p.m.

(Ord. 2010-018, passed 11-18-2021; Ord. 2010-018, passed 2-16-2022) Penalty, see § 150.999

§ 150.242 PERSONAL USE CULTIVATION AND PRODUCTION.

Cannabis cultivation and production for personal use in quantities and as permitted by the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act is allowed anywhere in the city, subject to the following: “Cannabis cultivation

and production for personal use must be conducted inside an enclosed and locked dwelling unit or an appropriate accessory structure (e.g., a controlled-environment agricultural structure)". Refer to § 150.005.

(Ord. 2010-018, passed 11-18-2021; Ord. 2010-018, passed 2-16-2022)

§ 150.999 PENALTY.

(A) *Prosecution in court.* This chapter shall be enforced as provided for by law, including, but not limited to, the specific provisions of NMSA §§ 3-21-10 and 4-37-3. No application under this chapter shall be approved for land that was illegally subdivided, or on which a violation of this or any other ordinance or requirement or any other provision of law exists.

(B) *Civil penalties and enforcing entities.* It shall be unlawful to construct, reconstruct, enlarge, change, maintain or use any building or to use any land in violation of any regulations or any provisions of this chapter or of any amendments thereto. Any person, firm, corporation or other entity violating this chapter or any regulations, provisions or amendments thereto shall be fined not more than \$500 per owner per violation per location. The City Attorney, the City Chief of Police, any uniformed officer representing the city and the City Zoning Administrator shall enforce this chapter.

(C) *Injunction, abatement and other remedies.* In case any building is, or is proposed to be, located, erected, constructed, reconstructed, enlarged, changed, maintained or used in violation of the law or of this chapter or any amendments thereto, or any land is, or is proposed to be, used in violation of the law or of this chapter or any amendments thereto, the City Board of Trustees, the District Attorney, the City Chief of Police, any uniformed police officer of the City Police Department or the Zoning Administrator or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies provided by law, may institute injunction, abatement or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

(Ord. 2010-018, passed - -)