

Ordinance 2021-02: Establishing Zoning and Other Regulations for Cannabis

WHEREAS, New Mexico Governor Michelle Lujan Grisham signed House Bill 2 (HB 2) on April 12, 2021, which passed the House 38-32 and the Senate 22-15 during a special legislative session called by the governor, and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of cannabis by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of cannabis plants in a primary residence by adults age 21 years and older; allowing a certain medical cannabis plants in a primary residence by adults age 21 years and older; allowing a certain medical cannabis dispensary or other non-dispensary applicant to apply to the Department of Health Services (the “Department”) to become a licensed cannabis establishment authorized to engage in the retail sale, cultivation, and manufacturing of cannabis; and allowing the Department, or another entity designated by the Department, to become a cannabis testing facility to test the potency of cannabis and detect any harmful contaminants, and

WHEREAS, the New Mexico Cannabis Regulation Act (NMCRA) has authorized a variety of uses related to the legalization of medical and recreational commercial cannabis activities, which legalization has the potential to greatly expand the legal cannabis market; and

WHEREAS, Cannabis is an intoxicating substance, 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, and manufacturing creates strong odors, can involve the use of significant amounts of energy and water, and requires 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, the Act empowers the Town of Mesilla to adopt time, place and manner rules relating to cannabis use and operations so long as they are not inconsistent with the Act or the Dee Johnson Clean Indoor Air Act; and

WHEREAS, this ordinance is subject to change or amendment as the New Mexico Cannabis Regulation Act (“CRA”)’s rules and regulations are amended and adopted, and it shall comply with NMCRA and its regulations.

NOW THEREFORE, BE IT ORDAINED by the Governing body of the Town of Mesilla that:

SECTION 1. Purpose

This Ordinance is adopted to protect the health, safety, and welfare of the community. Except as allowed by NMCRA and its pertinent laws or regulations for personal or private use, the Town of Mesilla enacts reasonable regulations and requires compliance with the NMCRA and its pertinent laws or regulations.

SECTION 2.

1. Definitions

- a) "Adjacent grounds" means all areas that the licensee has an exclusive right to possess by virtue of his ownership or lease, which are outside the enclosed licensed premises, but adjacent and contiguous to the licensed premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots, and similar areas and all fixed and portable things in those areas, including but not limited to lights, signs, speakers, and security devices.
- b) "Approve a business license" means to find that the requirements for a license have been met but does not give the applicant the right to operate a cannabis establishment in the Town until the license is issued. This standard applies even where the applicant has already obtained a State of New Mexico cannabis license.
- c) "Character and record" includes all aspects of a person's character and record, including but not limited to moral character, criminal record, serious traffic offenses, record of previous sanctions against liquor licenses, gambling licenses, or cannabis licenses, which the person owned, in whole or in part, or in which the person served as a principal, manager, or employee; education, training, experience, civil judgments, truthfulness, honesty, and financial responsibility.
- d) "Cannabis" 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 does not include:
 - i. 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

- ii. the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink, or another product.

For the purpose of this Ordinance, the term cannabis and medical cannabis are interchangeable.

- e) "cannabis consumption area" means an area where cannabis products may be served and consumed;
- f) "Cannabis courier" means a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.
- g) "Cannabis establishment" means:
 - a. A single retail location where the licensee may sell marijuanacannabis and marijuanacannabis infused products to consumers, including edibles. It includes both recreational and medical marijuanacannabis.
 - b. An offsite manufacturing and production facility at which the licensee may manufacture and produce marijuanacannabis and marijuanacannabis infused products, which are not sold on location but are sold or transferred to consumers at other locations. It includes both recreational and medical marijuanacannabis.
 - c. A cultivation facility at which the licensee may grow or cultivate marijuanacannabis and marijuanacannabis infused products, which are not sold on location but are sold or transferred to consumers at other locations. It includes both recreational and medical marijuanacannabis.
 - d. A combined retail, production, and manufacturing location where the licensee may produce and manufacture marijuanacannabis and marijuanacannabis infused products, including edibles, and sell these products to consumers at the same location. It includes both recreational and medical marijuanacannabis.
 - e. A combined retail, production, manufacturing, and cultivation/growing location, where the licensee may cultivate and grow marijuanacannabis, produce and manufacture marijuanacannabis, including marijuanacannabis infused products and edibles, and also sell these products to consumers at the same location. It includes both recreational and medical marijuanacannabis.
- h) "Cannabis, immature plant" means the germination, seedling, and vegetative stages are classified as immature cannabis plants and are excluded from a licensee's approved cannabis plant level.
- i) "Cannabis, mature plant" means a female cannabis plant in the flowering stage.
- h)j) "Cannabis manufacturer" means a person that:

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- i. manufactures cannabis products.
- ii. packages cannabis products.
- iii. has cannabis products tested by a cannabis testing laboratory; or
- iv. purchases, acquires, sells, or transports wholesale cannabis products to other cannabis establishments

h)k) “Cannabis producer” means a person that:

- i. cultivates cannabis plants.
- ii. has unprocessed cannabis products tested by a cannabis testing laboratory.
- iii. transports unprocessed cannabis products only to other cannabis establishments; or
- iv. sells cannabis products wholesale.

h)l) “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.

h)m) “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.

h)n) “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.

h)o) “Cannabis retailer” means a person that sells cannabis products to qualified patients, primary caregivers, or reciprocal participants or directly to consumers.

h)p) “Cannabis testing laboratory” means a person that samples, collects, and tests cannabis products and transports cannabis products for the purpose of testing.

h)q) “Complaint” means a document filed with the Town seeking sanctions against a cannabis business license.

h)r) “Contiguous” means located within the same building as the cannabis establishment, located in a separate building on the same parcel of land as the cannabis establishment, or located in a separate building on a separate parcel of land that is adjacent to and shares at least fifty percent (50%) of a common lot line with the lot on which the cannabis establishment is located.

h)s) “Daycare” means a facility required to be licensed by the State of New Mexico that provides care, services, and supervision for less than 24-hours a day to children.

h)t) “Employee” means the licensee’s or proposed licensee’s employees.

s)u) “Harm” or “harmful to public health, safety or welfare” means any matter that adversely affects the health, safety, or welfare of any person or group of persons within the Town or any adjacent community, including but not limited to matters related to crime, lighting, security, traffic, graffiti, litter, parking, and noise. A showing of actual harm shall not be required and a showing of potential or threatened harm shall be sufficient. Any violation of any criminal statute or ordinance is per se substantially harmful to public health, safety, and welfare, without any showing of actual or threatened harm. The mere possession, advertising, sale, cultivation, processing, smoking, or ingestion of cannabis or cannabis infused products, when performed lawfully, shall not in itself be considered harmful to public health, safety, and welfare.

t)v) “Integrated cannabis microbusiness” means a person that is authorized to conduct one or more of the following:

- i. 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.
- ii. manufacture of cannabis products at a single licensed premises.
- iii. sales and transportation of only cannabis products produced or manufactured by that person.
- iv. operation of only one retail establishment; and
- v. couriering of cannabis products to qualified patients, primary caregivers, or reciprocal participants or directly to consumers.

u)w) “In public” means any area that the public may generally enter, including any business open to the public. The term includes the licensed premises and the adjacent grounds if the cannabis establishment has not also obtained a consumption license from the State of New Mexico. The term includes persons in motor vehicles located in a public place. It also includes property owned or leased by the Town, State or Federal government.

v)x) “Issue a business license” means to finalize the Town’s local license after a previous approval of the license and may or may not occur after approval of the license, depending on any completions, inspections, approvals, or conditions that the Town may require to be satisfied before issuance. Issuance gives the licensee the ability to operate a cannabis facility, provided that the licensee also obtains a valid State of New Mexico license.

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w)y) “License” under this Ordinance means a local business license issued by the Town of Mesilla for the sale, production, manufacturing, cultivation, or distribution of cannabis or cannabis infused products.

x)z) “Licensee” means the person or entity holding a local Town cannabis business license under this Article.

y)aa) “Licensed premises” means the area inside a building in which the cultivation, manufacture, processing, infusion, possession, weighing, display, packaging, sale, and exchange of cannabis and cannabis infused products is licensed under this Ordinance.

bb) “Lynn and Erin compassionate use act” means an act to allow the beneficial use of medical cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments.

z)cc) “School” means that 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 an elementary, middle, junior high or high school or any combination of those and includes ~~private and/or~~ charter schools.

aa)dd) “Vertically integrated cannabis establishment” means a person that is authorized to act as any of the following:

- i. a cannabis courier.
- ii. a cannabis manufacturer.
- iii. a cannabis producer; and
- iv. a cannabis retailer.

bb)ee) “Operate” or “operation” means the matters described in this Ordinance, as amended.

ee)ff) “Person” means any natural person and any entity.

dd)gg) “Principal” means:

- a. In the case of any entity, including any general or limited partnership, corporation, limited liability company, or other entity: any person who has a five percent (5%) or greater interest in the ownership of the entity, and any person who has the day-to-day authority to or actually does manage the entity’s finances.
- b. In the case of a corporation: the persons described as a representative or applicant for any entity and the president, vice president, secretary, chief executive officer, chief financial officer, and any person who holds five percent (5%) or more of the capital stock of the corporation.

- c. In the case of a limited liability company: the persons described as a representative or applicant for any entity and any member of the limited liability company.
- d. In the case of a sole proprietorship, the individual owner.

ee)hh) “Public property” means property that is occupied, owned, controlled, or operated by the Federal, State, or Town government.

2) General Requirements:

- a) It shall be unlawful to use, sell, manufacture, cultivate, produce, or distribute cannabis on public property within the Town of Mesilla.
- b) Cannabis establishments shall not allow a person to consume cannabis on site, or on adjacent grounds, except as where authorized by the New Mexico Cannabis Regulation Act, as amended, including obtaining a consumption license.
- c) Cannabis establishments shall provide for proper and secure disposal of all cannabis products and byproducts and shall abide by the Town’s regulations regarding rubbish and discharges into the municipal wastewater system.

d) Cannabis establishments shall not emit fumes, dust, odors, or vapors into the environment or disturb adjacent uses.

e) Cannabis establishments shall not display or keep visible from outside the licensed establishment any cannabis products or paraphernalia.

3) Establishing Business Registration.

The Town of Mesilla, as the local cannabis business licensing authority, shall have the following powers and authority:

- a) To issue, deny, or revoke a Town cannabis business license and renewals of the same, and where necessary, to conduct public hearings related thereto.
- b) To impose any sanctions on a Town cannabis business license, including revocation, upon its own authority and initiation, or in response to a complaint by any person for any violation by the licensee after investigation and a public hearing, at which the licensee shall be afforded an opportunity to be heard. Such hearings will allow for the presentation of evidence by the applicant and Town staff and will be followed by the adoption of formal findings and conclusions.
- c) To adopt application forms, fees, and submission requirements for a Town cannabis business license.

- d) ~~No person or corporate entity may operate a cannabis establishment within the Town without first obtaining a Town cannabis business license. It is illegal to operate a cannabis establishment in the Town without first obtaining a local Town cannabis business license.~~
- e) All licenses will be administered and approved by the Town provided that the applicant has met all conditions and requirements established herein.
- e)a) ~~It is illegal to operate a cannabis establishment in the Town without first obtaining a local Town cannabis business license.~~
- f) Upon issuance, the Town's cannabis business license shall be displayed within the premises and be visible to public view.
- g) Registration shall be renewed by June 30 annually.

4) General Licensing Requirements.

To obtain a Town cannabis business license under this Ordinance, the applicant ~~must shall~~ demonstrate the following:

- a) The proposed licensed premises and adjacent grounds meet all requirements for issuance of a State of New Mexico cannabis license and all applicable laws and regulations.
- b) The applicant shows provisional proof of a valid State of New Mexico cannabis license.
- c) The applicant has met all requirements, including payment of any applicable taxes and fees, both state and local.
- d) The applicant has obtained a separate Town business license for any other business activity that will also be operated on the licensed premises and paid all applicable license fees.
- e) The premises and adjacent grounds are not licensed or operated as an establishment for the sale or service of alcohol beverages, or as a massage parlor, a dance hall, adult business, gun sales or an amusement facility.
- f) The applicant has applied for a Town cannabis business license on the established forms, that the Community Development Coordinator or designee has determined is complete.
- g) In the case of a retail cannabis establishment, the applicant has demonstrated that the proposed licensed premises is located on or within property zoned or used as

Commented [CH1]: Do we want to include gun sales here?

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Historical Commercial (HC) Zone (MTC 18.35) or General Commercial (GC) Zone (MTC 18.45). A combined retail and production, manufacturing or growing establishment is not allowed in these zones.

- h) In the case of a cannabis establishment that is manufacturing, producing, or cultivating for commercial use (non-personal use), and even where combined with ~~a retail cannabis establishment~~distribution, the applicant has demonstrated that the proposed licensed premises is located on or within property zoned or used as Rural Farm (RF) Zone (MTC 18.20) or Residential/Agricultural (RA) Zone (MTC 18.25) or Single-Family Residential (R-1) Zone (MTC 18.30), or as otherwise specified in the Town's land use and zoning regulations, including those uses subject to a special use permit.
- i) In the case of a cannabis establishment that is manufacturing, producing, or cultivating, and even where combined with a retail cannabis establishment, the applicant shows adequate water resources and applicable permits, as approved by the Town, or as required under the laws of the State of New Mexico.
- j) The applicant must demonstrate that the location of the proposed licensed premises is no less than five hundred (500) feet from any other licensed cannabis establishment. Measurements shall be made from any wall of the two (2) proposed or existing licensed premises. Nothing herein prohibits multiple licenses from operating from a single premise.
- ~~k)~~ If applying for consumption licensing, the applicant must demonstrate that the cannabis consumption area is more than 300 feet of a Residential zone district.
- ~~k)l)~~ Alcohol consumption in a cannabis consumption area is prohibited as per State Law.
- ~~l)m)~~ The applicant must demonstrate that the proposed licensed premises are not located within three hundred (300) feet of any public or private school or other daycare facility. The distances referred to in this paragraph are to be computed by direct measurement from the nearest property line of the land used for a school or campus, to the nearest portion of the lot that is the situs of the building that is proposed for a licensed premises.
- ~~m)n)~~ The applicant agrees to only sell cannabis products and receive deliveries between the hours of 8:00 a.m. and 12:00 a.m. Monday through Saturday and

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12:00 p.m. to 12:00 a.m. on Sundays. Deliveries can only be between the hours of 8:00 a.m. and 6:00 p.m.

- n)o) The applicant for a Town cannabis business License, principals, registered manager, and employees must meet all requirements under New Mexico State law.
- o)p) The applicant, principals, registered manager, and employees must be at least twenty-one (21) years of age.
- q) The applicant, principals, registered manager, and employees all hold valid occupational licenses and registrations as required by the State of New Mexico, including all applicable cannabis licenses.

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3)5) Allowable land use zoning:

- a)a. Historic Residential (HR) Zone (MTC 18.35) and Single Family Residential (R-1) zone (MTC 18.30): Private property consumption, and cultivation of up to 6 mature and 6 immature plants per household.
- b)b. Single Family Residential (R-1) Zone (MTC 18.30) (If ancillary to the single-family home): Microbusiness.
- c)c. Residential Agricultural (RA) Zone (MTC 18.25) and Rural Farm (RF) zone (MTC 18.20): allows for cultivation, Cannabis testing Laboratory, Cannabis producer, Cannabis testing laboratory, vertically integrated cannabis establishment, Cannabis training and education.
- d)d. General Commercial (C) Zone (MTC 18.45) and Historic Commercial (HC) Zones (MTC 18.35): Cannabis retail. Cannabis manufacturer - Safe and secure extraction only allowed in this zone. Cannabis Consumption area with a special use permit only.

~~Cannabis Consumption area with a special use permit only.~~

4)6) Specific Requirements Regarding the Premises.

- a)a. The proposed licensed premises are in a fixed, permanent, non-portable building and are not located in a movable or mobile structure or in a vehicle, nor is it operated as a home occupation under Town regulations.
- b)b. The size of the premises is compatible and compliant with the applicable zoning district limitations regarding square footage for that zone.
- c)c. The applicant must have sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises as shown by a deed or other instrument of record. The applicant must show proof that the lessor has agreed to use of the premises as a cannabis establishment.
- d)d. All storage, dispensing, manufacture, production, and cultivation activities shall be conducted indoors in a building meeting the requirements of Subsection (a).
- e)e. Plants, products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or right-of-way.
- f)f. Sign regulations ~~are and~~ governed by the zone of which the license shall be issued.
- g)g. The proposed licensed premises have a suitable limited access area where the cultivation, display, storage, processing, weighing, handling, and packaging of cannabis and cannabis infused products occurs, which is posted “employees only,” and is separated from the areas

accessible to the public by a wall, counter, or some other substantial barrier designed to keep the public from entering the area.

~~h)h.~~ The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the Town's ~~Marshal Department or Building~~ ~~designated~~ ~~Official~~, and showing at least the following minimum-security measures:

- i. All doors, windows and other points of entry have secured and functioning locks.
- ii. A locking safe or enclosed secured storage located inside the proposed licensed premises in which any cannabis and cannabis infused products will be secured when the licensed premises are not open to the public.
- iii. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two (2) premises that can be locked from the licensee side and cannot be opened from the other side.
- iv. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows, and other points of entry to the proposed licensed premises; and
- v. Windows facing the adjacent grounds and lighting of the adjacent grounds sufficient to ensure that customers entering and leaving the licensed premises, entering, and exiting parked cars on the adjacent grounds, and walking across the adjacent grounds can be observed by employees from inside the licensed premises.
- vi. All licensing requirements established by the State of New Mexico.

~~i)i.~~ The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire, and other codes, statutes, and ordinances, as shown by completed inspections and approvals from the ~~Town's Building Official and~~ ~~Town's Fire Marshal-designated official~~

~~j)j.~~ There is sufficient parking available on the proposed adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time, pursuant to applicable provisions of the Town of Mesilla.

~~k)k.~~ The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause any substantial harm to public health, safety, and welfare.

~~l)l.~~ The proposed licensed premises are equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate cannabis odors emanating from the interior to

the exterior discernible by a reasonable person, including to any public property or right-of-way within the Town. The ventilation system must be inspected and approved by the Town ~~Building Official's designated official.~~ [Refer back to \(I\) Mechanical Code compliance.](#)

- m)n. The proposed licensed premises are located in a building that does not share any doors, windows, air passages, vents, ducts or any heating, ventilation, air conditioning, or air handling equipment or structures with any other building or premises whatsoever.
- n)n. Walls, barriers, locks, signs, and other means are in place to prevent the public from entering the area of the proposed licensed premises utilized for cultivation or production and manufacturing. The Town provides an exception for the perimeter fencing/wall requirements if the fencing materials are required by State Law for the production, manufacturing and cultivation of cannabis in the following zones: Rural Farm (RF) Zone (MTC 18.20) or Residential/Agricultural (RA) Zone (MTC 18.25) or Single-Family Residential (R-1) Zone (MTC 18.30).
- o)o. Customer visits and deliveries are prohibited between 12:00 a.m. and 8:00 a.m. for any Cannabis Cultivation Facilities, Cannabis Producers, Cannabis-derived products facilities, located within 300 feet of a Residential zone district.
- p)p. The proposed licensed premises must ensure that the ventilation system, air filtration, building screening requirements, necessary security apparatus and lighting are all compatible with neighboring businesses and adjacent uses.
- q)q. Every licensee and its principals, registered manager, and employees have a continuing duty to ensure that the requirements of this Section continue to be met after the license is issued and at all times that the license remains in effect.
- r)r. The licensee abides by all Town ordinances regarding signage, land use and zoning, water service, and wastewater discharge.
- s)s. Commercial on-site cannabis consumption is prohibited in all zones until regulations promulgated by the State become effective, in which cases all other Town provisions regarding on-site consumption not prohibited by state regulation will be effective.
 - i. Commercial on-site consumption of cannabis is the commercial cannabis activity ingesting of cannabis or cannabis products in a licensed cannabis consumption area. Commercial on-site consumption is considered part of Cannabis Relief. Unless license pursuant to the Lynn and Erin compassionate use act, access to the cannabis consumption area is restricted to persons 21 years of age and older.

- ii. Commercial on-site consumption of cannabis will not be permitted.

5)7) Delivery permit restrictions.

The following restrictions shall be placed on cannabis delivery permits:

Only medical or retail cannabis transporters ~~who qualify as a social equity applicant as defined in and by the National Cannabis Industry Membership~~ who holds a valid license and a delivery permit issued may deliver regulated cannabis to private residences of customers and patients, subject to the provisions the NMRCA and its pertinent regulations and rules.

6)8) Changes to License.

No licensee shall make any of the following major changes without first obtaining the written approval of the Town:

- a) Any transfer of the license or any ownership interest in the licensee entity or license.
- b) Any change in location of the licensed premises.
- c) Any change in the licensee's principals.
- d) Any change in the structure, walls, doors, windows, ventilation, plumbing, electrical supply, floor plan, footprint, elevation, operation, operational plan, patios, decks, safe or vault, locks, surveillance system, doors, window coverings, or security system at the licensed premises.
- e) Any material changes to the adjacent grounds, including but not limited to lighting, parking, and traffic flow.

7)9) Cultivation and Growing for Personal Use.

Individuals may possess, cultivate, and grow cannabis in their residence, including in a residential zoning district, but only for their personal use and subject to the following limitations as established under the New Mexico Cannabis Regulation Act, as amended:

- a) An individual must be at least twenty-one (21) years of age.
- b) It is unlawful to grow, cultivate, or process more than the designated number of cannabis plants per person, and per residence set forth in the New Mexico Cannabis Regulation Act, as amended, and any other applicable laws of the State of New Mexico.
- c) A residence shall not emit cannabis odors of any kind.
- d) Any growing or cultivation of cannabis products for personal use shall not be visible to the public.

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- e) Any growing, cultivation or production of cannabis or cannabis infused products for personal use shall not be sold or transferred to third parties for future sale.
- f) No cannabis sale, production, distribution, manufacturing or cultivation shall be allowed in the Historic residential zone district, except for personal use and as specifically set forth herein.

8)10) Establishment of New Fees.

- a) Planning and Building Cannabis application/inspection fee \$500.00
- b) Planning and Building records management fee \$100.00
- c) Planning and building site inspection fee \$500.00
- d) For Cultivation cottage or nursery initial Planning and Building /inspection fee \$800.00
- e) Cannabis Transporter/Courier Permit fee \$250
- f) A cannabis waste plan review fee \$50

9)11) Renewal annual application fee for all cultivation permit types

- a) Planning and Building cannabis application/inspection fee \$500.00
- b) Planning and Building records management fee \$100.00
- c) Planning and Building site inspection (not charged unless required as part of a change as outlined in Section 8d and 8e).

10)12) Renewal annual application fee for all other permit types

- a) Planning and Building cannabis application/inspection fee \$500.00
- b) Planning and Building records Management fee \$100.00
- c) Town issued Business License \$35.00
- d) Cannabis Transporter/Courier Permit \$250

Licensee shall ensure that all licensed premises are in compliance with Construction Industries Licensing Act and comply with the Occupational Health and Safety Act.

11)13) Revocation of License.

- a) Any person in violation of a local Town cannabis license as set forth herein is subject to revocation for violations of this Ordinance, other Town ordinances, or New Mexico State or Federal laws.
- b) If the Town finds that there is probable cause that a violation has occurred, it shall immediately investigate the alleged violation.
- c) Upon evidence of a violation, the Town shall notify the licensee in writing of the specific allegations and the date of hearing scheduled for the Town Trustees to consider the revocation or any other appropriate action involving the license.

- d) During the license revocation hearing, the Town Trustees will hear evidence from Town staff and the licensee. Each party will be given an opportunity to be heard, to present witnesses, to cross examine witnesses, and to present evidence and exhibits in support of his or her case. At the conclusion of the hearing, the Town Trustees will make formal findings as to the reasons for revoking the license or allowing it to remain in place with conditions.
- e) If a cannabis license issued under this Ordinance is revoked, the licensee must cease doing business immediately, or as prescribed by the Town.

12)14) Enforcement. The provisions of this Ordinance shall be enforced by the Town’s Code Enforcement Officer, or a law enforcement officer tasked with enforcing the Town’s Code.

13)15) Penalties. Any violation of this Ordinance may be enforced in any court of competent jurisdiction. The maximum penalty per violation of this Ordinance, unless otherwise indicated, shall be up to \$500 and/or up to 90 days in jail. Each day during the time in which a violation occurs shall be deemed a separate violation. Nothing herein shall prevent the Town from seeking injunctive relief, if appropriate

SECTION 2. Repealer

All ordinances or resolutions, or part therefore, inconsistent with this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution.

SECTION 3. Effective Date

This ordinance shall be in full force and effect, five (5) days after this approval, adoption and publication as provided by law.

PASSED, ADOPTED AND APPROVED this [MONTH] [DAY], [YEAR].

Nora L. Barraza
Mayor
Town of Mesilla

ATTEST:

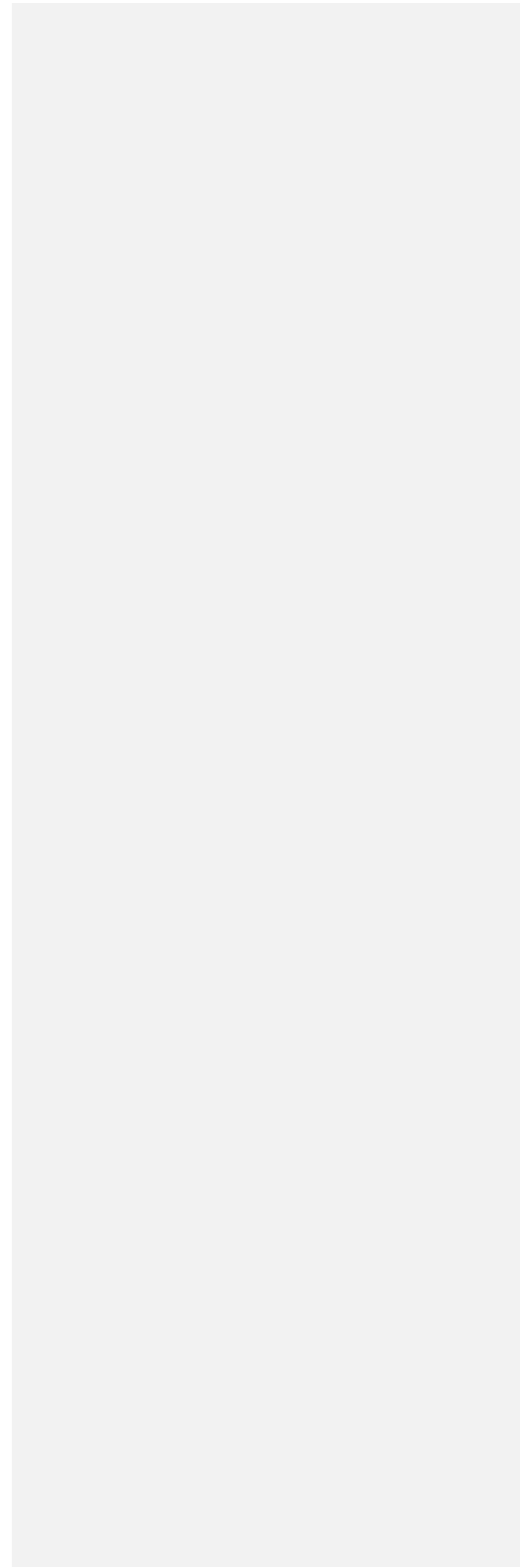
By: _____
Cynthia Stoehner-Hernandez

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Clerk/Treasurer
Town of Mesilla

(seal)

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New Mexico Adult Use Cannabis Licenses and fees

LICENSE / PERMIT

ANNUAL FEES

Cannabis Producer License:

- \$2,500.00 annual license fee
- \$1,000.00 annual fee for each additional licensed premises

Annual per plant fee (up to 8,000 plants)

- \$10.00 per plant for each mature commercial cannabis plant
- \$5.00 per plant for each mature medical cannabis plant

LICENSE / PERMIT**ANNUAL FEES****Cannabis Producer
Microbusiness
License:**

The fees for this license type are determined by the number of plants growing under each microbusiness license:

- \$1,000.00 annual fee if growing 101 to 200 plants
- \$500.00 annual fee if growing 100 plants or less

**Cannabis
Manufacturer
License:**

- \$2,500.00 annual license fee
- \$1,000.00 annual fee for each additional licensed premises

**Cannabis Retailer
License:**

- \$2,500.00 annual license fee
- \$1,000.00 annual fee for each additional licensed premises

**Cannabis Testing
Laboratory License:**

- \$2,500.00 annual license fee
- \$1,000.00 annual fee for each additional licensed premises

**Cannabis Research
Laboratory License:**

- \$2,500.00 annual license fee
- \$1,000.00 annual fee for each additional licensed premises

**Cannabis Courier
License:**

- \$250.00 annual license fee
- \$100.00 annual fee for each additional licensed premises

**Cannabis
Consumption Area:**

- Up to \$2,500.00/year

Cynthia Stoechner-Hernandez

From: Cynthia Stoechner-Hernandez <cynthias-h@mesillanm.gov>
Sent: Monday, October 25, 2021 4:08 PM
To: 'Alyssa Pearson'
Subject: RE: Draft Cannabis Ordinance

Hi Alyssa:

Thank you for your comments. I will review them and see what we can do.

Thanks again,
Cynthia Stoechner-Hernandez
Clerk/Treasurer
TOWN OF MESILLA

The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

From: Alyssa Pearson <drgreenorganics@gmail.com>
Sent: Monday, October 25, 2021 4:02 PM
To: Cynthia Stoechner-Hernandez <cynthias-h@mesillanm.gov>
Subject: Re: Draft Cannabis Ordinance

Hi Cynthia,

Thank you so much for forwarding the draft of Ordinance 2021-02 – Establishing Zoning and Other Regulations for Cannabis. I have had a chance to look it over and have a few initial concerns from my perspective that I wanted to share with you before your meeting this evening.

1. Section 2, subsection j: “Cannabis producer microbusiness”
 - a. As of right now, you have defined a “cannabis producer microbusiness” as a producer growing no more than 200 plants. As a producer who hopes to grow 200 plants on site (never more), but may not always be considered by the state as a “microbusiness” when we become vertically integrated to open retail, I am hoping for maybe some additional clarification in the rules that “cannabis producer microbusiness” will apply regardless of the statewide classification.
 - i. This is important to us because a “vertically integrated cannabis microbusiness” as defined by the state cannot sell cannabis from other producers. When we open our retail location, we want to be able to sell from other growers/producers in Mesilla and the surrounding community. When this happens, the state may no longer consider us a “microbusiness” even though the size of our grow has not changed.
2. Section 2, subsection q:
 - a. We would like this definition to be limited to daycares operated in commercially zoned buildings. With the proliferation of “at-home” daycare facilities, this would be very difficult for cannabis businesses to verify and could cause otherwise viable businesses to become ineligible.
3. Section 4, subsection j): The 500 feet rule.
 - a. While I understand not wanting Mesilla to become excessively dense with cannabis businesses, we’re concerned that this provision may push out smaller businesses like ours that cannot afford to

lease empty retail until April 1st and which are unlikely to have enough inventory on hand to even open on April 1st due to delays in permitting. Right now, the big corporations are snatching up retail locations and were able to buy unincorporated land to start licensed grows this fall. They will be able to lease in the prime areas of Mesilla and with a 500 ft distance between locations, we could be physically unable to open shop in Mesilla if two competitors are located in the center of town. Not only would we not want to open shop anywhere else, but we also wouldn't want our gross receipts taxes to end up in Las Cruces or La Mesa.

i. We would like this provision removed or reduced to 300 feet (I believe this is what CLC ended up settling on).

ii. We would like a specification that this buffer zone could be overruled with a special use permit

4. Sections 10-12: The fees –

a. We'd like the ordinance to specify that these fees will be due upon acceptance of the business license, not when the application is submitted - as it done with zoning approval processes currently. This will be extremely helpful for small startups like our own that have limited capital reserves.

b. For license renewals (11 & 12), it would be nice if a) and b) could be halved/reduced since no substantial changes will have occurred to the business requiring extensive review and GRT should more than cover any difference.

My business partners are also going to review this over the next few days from their areas of expertise so I may have subsequent concerns.

Thank you so much. Please let me know if there's anything I can do to be of help,

Alyssa

On Mon, Oct 25, 2021 at 4:37 PM Cynthia Stoechner-Hernandez <cynthias-h@mesillanm.gov> wrote:

Hi Alyssa,

Attached is the draft ordinance that will be taken to the Boards' for review tonight during their work session.

Thank you,

Cynthia Stoechner-Hernandez

Clerk/Treasurer

TOWN OF MESILLA

t 575.524.3262 | direct 575.800.4948

CynthiaS-H@mesillanm.gov | mesillanm.gov



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Cynthia Stoechner-Hernandez

From: drgreenorganics@gmail.com
Sent: Friday, October 29, 2021 2:43 PM
To: cynthias-h@mesillanm.gov; yolandaglucero@gmail.com; mesillaj3@aol.com; dannyjonesnm@gmail.com; ej.walkinshaw65@gmail.com; mayor@mesillanm.gov
Subject: Suggested revisions to Ordinance 2021-02: Establishing Zoning and Other Regulations for Cannabis
Attachments: 0 - mesilla zoning comments.docx; 1a- Debunking Dispensary Myths -- FINAL.pdf; 1b - Societal Impacts of Cannabis Dispensaries_Retailers - NORML.pdf; 1c - Dispensaries have a 100% chance of being audited.pdf; A - mesilla map 300 feet school buffer.docx; B- mesilla map 300 feet school buffer with 500 foot establishment buffer.docx

Good afternoon Cynthia, Mrs. Mayor and P&Z Commission Members,

First and foremost, happy Friday!

Secondly, I am once again writing you on behalf of Dr. Green Organics Co. to offer an industry perspective on the proposed ordinances. Thank you again for all of your hard work (and Cynthia especially for coordinating these efforts) and we hope our comments prove useful as you finalize your draft.

Over the past week, my partners and I have spent time reviewing the proposed zoning ordinances I received Monday and have developed an outline of 19 concerns we have with the current proposal which we have both attached to this e-mail and included below. These concerns range from issues with verbiage, safety implications, unnecessary/duplicated bureaucracy/cost, potential for clauses to be used discriminatorily, conflicts with industry standards, and small business accessibility for safe manufacturing activities. They are also ordered chronologically as they appear in the document.

I have also attached some supplemental documentation including: cannabis industry reports as they pertain to health and safety issues (1a & 1b), IRS oversight (1c), as well as some homemade illustrations of the buffer zones (A & B) Please forgive the illustration quality in advance, I am most certainly not a surveyor/engineer.

Please let me know if you have any questions about what I have included or if anything is unclear. I am happy to clarify or discuss any of our concerns or be of help in any way I can.

Best wishes to you all,
Alyssa

Alyssa J. Pearson, Ph.D.

Chief Operating Officer

Dr. Green Organics Co.

Phone or Text: 575-640-1084

E-mail: drgreenorganics@gmail.com

Expanded comments on the Ordinance 2021-02:

1. Added literature for the consideration of the committee.

Attached to this message are articles and reports examining the effects of cannabis dispensaries on public safety which I will summarize below.

- a. Article 1a: Special Report: Debunking Dispensary Myths
 - i. This article looks at crime/public health & safety data for areas with legal cannabis retail and finds that cannabis retailers have
 - 1. No effect (or a negative effect) on crime rates for crimes such as burglaries, robberies and assaults which people mistakenly associate with dispensaries
 - a. Also examines how previous research suggesting crime increases with dispensary openings failed to account for a disproportionate police presence around dispensaries and the communities where they first opened
 - 2. No effect (or a negative effect) on teen use because taking cannabis out of the black market makes it more difficult for young people to access
 - 3. No effect or a positive effect on surrounding property values. In fact, housing located within 0.1 miles of dispensaries typically saw a 8.4% increase to the value of their property after opening relative to further properties in the same area.
 - ii. This article also examines the research that typically shows cannabis associated with negative
- b. Article 1b: Societal Impacts of Cannabis Dispensaries/Retailers
 - i. This article provides a summary of 19 studies examining the effects of cannabis retailers and shows:
 - 1. Dispensary openings are not associated with an increase in crime
 - 2. Dispensary openings are associated with rising housing values
 - 3. Dispensaries serve an older, wealthier clientele than the average cannabis user and they are typically seeking cannabis for therapeutic purposes
 - 4. Prevalence of dispensaries does not increase teen use
 - 5. Dispensaries are not selling to minors and their products are not being diverted to underage consumers
 - 6. Dispensaries reduce opioid consumption from the general public
- c. Article 1c: Cannabis businesses have a 100% chance of being audited
 - i. Due to federal regulations regarding cannabis (specifically 208e), filing taxes as a cannabis is extraordinarily complicated. Combine that with a largely cash-based revenue stream and the question of an audit is not “if” but “when” for cannabis businesses.

2. Section 2(c): Character and record –

We would like this definition removed for several reasons:

- a. Cannabis businesses will be heavily regulated and monitored by the state and IRS. Between the intensive tracking paperwork, monitoring technology required by the state and the 100% likelihood of being IRS audited, people who are operating these businesses in violation of the law will lose their licenses.
- b. The state has already outlined what criminal/civil activities make a licensee ineligible for a business license including but not limited to: history of embezzlement, failure to pay taxes, trafficking involving children, and currently holding a liquor license. We will be subject to background checks and other verifications of character. Furthermore, one of the explicit objectives of HB2 is to make sure that people who were historically disenfranchised by cannabis prohibition will have access to the proceeds of legalization. Their guidelines for what makes someone ineligible for a cannabis license are more than sufficient and local guidelines attempting to supersede these disqualifications in a way that would disproportionately affect people of color and indigenous people (as many of these would) would most likely be in conflict with state law.

- c. This definition is dangerously subjective. For example, could moral character include consuming cannabis before legalization? Engaging in pre-marital sex/cohabitation? Swearing in public? We are especially concerned that this provision provides a lot of room for discrimination against women, people of color, and LGBTQ+ people who are disproportionately negatively affected by these kinds of subjective “moral” clauses.
- d. This clause implies that cannabis dispensaries pose some type of extraordinary risk that could not be managed by a person of normal or even substandard moral character - an idea that would never be applied to a standard business license or a business perceived as generally safe (as the research referenced earlier demonstrates).

3. Section 2(h): Cannabis manufacturing

We would like a subcategory of “cannabis cottage industry” or similar term created as well as definitions added for associated terms:

Cannabis manufacturers will not all be homogenous. The state has largely not provided a lot of nuances about this but just speaking from what we plan to do, our manufacturing will be more equivalent to cottage industry/light industry than industrial manufacturing. We are hoping to be able to do this all on site because it will be no more dangerous than a bakery or an artisanal salsa company. As such we propose the following:

- a. Keep the definition of “cannabis manufacturer”
- b. Add definition for “hydrocarbon solvents” that reads: “volatile, petroleum-derived solvents including but not limited to hexane, gasoline, kerosene, white spirit, benzene, toluene, and xylene.”
- c. Learn more at: <https://www.americanchemistry.com/industry-groups/hydrocarbon-solvents>
- d. Include another definition for “cannabis cottage industry” or “cannabis light industry” which would be “a type of cannabis manufacturer whose activities meet the following criteria: 1) no activity producing noise, glare or heat observable or measurable outside the building; 2) no emission of objectionable dust, fumes, odors, vapors, gases, smoke or other forms of air pollution; 3) no vibration which is discernible beyond the property lines to the human sense of feeling for three minutes or more duration in any one hour of a day, 4) no extraction activity using hydrocarbon solvents
 - i. Notes: 1-3 are borrowed from the Las Cruces city code definition for “low-intensity industrial” (Section 38-49.3(E)(f)) and 4 was added due to the specific nature of cannabis manufacturing.
 - ii. This would prohibit the dangerous kinds of extraction on commercially zoned property while allowing for safe activities like edible production and rosin press extraction (link to video explanation: <https://www.youtube.com/watch?v=A9yYKEbmugQ&t=217s>)

4. Section 2(j): Cannabis producer microbusiness

Requesting a slightly modified definition here as mentioned in the previous message

Again, this expansion is important because the restrictions on “vertically integrated microbusiness” would make us ineligible to sell other producers products OR begin growing at a second location should we choose to expand.

- a. Original definition: “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.
- b. Added to the end: “As long as no more than 200 plants are grown on a single premises, a licensee will be considered a ‘producer microbusiness’ regardless of their state license classification”

5. Section 2(s): Harm

We would like this definition and the subsequent clause that references it (6-k) removed for several reasons.

- a. Businesses that operate liquor establishments in Mesilla have no such subjective clauses governing the issuance of their municipal liquor licenses or business licenses.

- b. For reasons similar to the “character and record” definition discussed earlier, such a clause would disproportionately target people historically disenfranchised by cannabis prohibition in opposition to HB2. As a company that intends to have a Black man running our retail operations, we would be *very* concerned that this subjective clause could allow people with implicit biases the ability to shut down our business without just cause.
- c. Furthermore, this clause suggests that no actual demonstration of harm is required only the “perceived” and “threatened” harm. For a cannabis business, this is tantamount to a soft prohibition after 50 years of anti-cannabis propaganda and a federal prohibition on research regarding the benefits of cannabis use and legalization.
- d. Lastly, what harm would this clause seek to prevent that is not already covered by existing codes, ordinances, and laws? Let the only harm a cannabis business needs to worry about be that which it has actually caused and for which they are absolutely liable under existing laws.

6. Section 4(b): The applicant shows provisional proof of a valid State of New Mexico cannabis license.

We would like this condition removed

- a. There’s no reason for Mesilla to look at a “provisional license” when an actual cannabis license will not be granted by the state unless all documentation is provided, and section 4(o) already covers that those businesses must “meet all requirements”. This just creates an extra step of bureaucratic nightmare for applicants. In lieu of a provisional license, Mesilla could ask to see a printout of the application in progress or the inclusion specific documents that it requires. Anything that doesn’t subject businesses to a 90-day, ambiguous waiting period from the state.
 - i. I understand that this is a long shot, but I would just like to say that we submitted a request for a provisional license over a month ago and have not heard anything regarding the progress of that submission. I have called to ask and been told they can give me no timeline. For big businesses that were able to locate in places where there are no zoning codes and who had all of their buildings constructed and inspected, this requirement poses minimal burden. For small businesses like ours, it could prevent us from growing in 2021 or opening retail in 2022.

7. Section 4(g): “A combined retail and production, manufacturing or growing establishment is not allowed in these zones”

We would like “cannabis cottage industry” listed as an exception

- a. In line with suggestion 2, we would like this portion of the ordinance to read as follows: “A combined retail and production, manufacturing or growing establishment is not allowed in these zones with the exception of cannabis cottage industry meeting all 4 requirements.”
 - i. This is important for a business like ours that would like to have a licensed commercial kitchen in which to do rosin press extractions and make gourmet edibles as well as other products from our homestead (jams, jellies, soaps). We want to make artisanal, locally produced goods (not just cannabis!) that will make Mesilla proud.

8. Section 4(j): 500 ft buffer zone between cannabis establishments

We would ask that this provision be removed because it is based on a faulty premise that cannabis establishments negatively affect health and safety

- a. This provision would essentially limit the number of cannabis establishments to 1 or maybe 2 in the Historic Commercial district with no opportunity for a special use permit. With the lack of available commercial real estate to lease in Mesilla, this could easily create an opportunity for the big cannabis corporations to lease one or two central locations and make it impossible for small businesses like ours

to find a space if one opens. By creating an opportunity for monopoly, Mesilla runs the risk that there would be only one, low-quality, out-of-state corporation selling cannabis in downtown Mesilla. We believe this would be bad for several reasons:

- i. Fewer profits paid to locals/spent by locals
 - ii. Lower quality product for local consumers
 - iii. Reduced tourism draw for Mesilla
- b. Additionally, we do not believe this buffer is written with a consideration for the spirit of the plaza which features several bars, breweries, and restaurants that serve alcohol and make a considerable portion of their revenues from alcohol revenues after food service has ended (i.e. from operating as a bar, not a restaurant). Part of the tourist appeal of Mesilla is the walkability of its downtown and forcing buffer zones between competing cannabis businesses does not enhance that quality.
- c. Lastly, the free market will ultimately decide which businesses will thrive in Mesilla. Why deprive the town of gross receipts taxes from thriving businesses if the market can support more than one or two? The only reason I can think of would be the implication that these businesses pose some type or risk or harm to the local community and the research provided earlier illustrates that is not true.

If the committee refuses to remove this provision, we ask that the buffer be reduced and a special use permitting process be outlined to protect local startups against anti-competitive behaviors from large corporations

- a. Reduce the buffer zone as much as reasonably possible (preferably 100 ft)
- b. Explicitly allow a special use permitting process to override the buffer zone

9. Section 4(m): 300 ft buffer zone between cannabis establishments and schools

We would ask that this provision be removed because it is based on a faulty premise that cannabis establishments negatively affect health and safety and is not in the spirit of zoning

- a. For retail
 - a. See attachment "A -...." that shows how much of the viable commercial real estate this would eliminate in downtown Mesilla.
 - b. This is the MAXIMUM allowable buffer zone by the state, but Mesilla has the ability to use their own discretion to make a decision. Given that liquor, beer and wine sales are presently allowed directly across the street from a school in a store which children are allowed to enter, we believe that cannabis businesses should be provided the same ability if such commercial property becomes available.
 - c. Cannabis retailers reduce teenage cannabis use rates and there are next to no recorded instances of underage sales (see earlier research) in part because of the heavy video monitoring of patients/customers in retailers.
 - d. We do not believe this provision is in the spirit of Mesilla's existing zoning regulations which allow
- b. For producers/manufacturers
 - a. There are already provisions about smells, secure fencing, top-quality alarm systems, and visibility of cannabis operations. Why should these businesses be spaced away from schools when they are already legally required to be as imperceptible as possible and extremely secure?

10. Section 4(j) & (m): 300 ft buffer zone between cannabis establishments + 500 foot business buffer

Please see attachment "B -" to see how the combination of these ordinances would almost certainly create a cannabis monopoly on the Plaza

11. Section 4(p): All employees must be 21 years of age

We would ask that this provision be removed since it is already covered in state law and will be monitored by the state, and is covered in Section 4(q) so all this does is add unnecessary bureaucracy.

12. Section 5(b): R1 zone – Microbusiness allowed if ancillary to single-family home

Add “Cannabis cottage industry” to this permissible use

- a. As mentioned early, these industries are imperceptible and this would allow more artisanal, locally produced cannabis edibles, tinctures, topicals and *safe* extracts.

13. Section 6, subsections g & h: regarding limited-access areas and security requirements

We would ask that these provisions be removed since they are already covered in state law and will be monitored by the state as a part of the licensing process, so all this does is add unnecessary bureaucracy and expense for the Town and licensee.

14. Section 6(h)v: Windows to monitor people entering and leaving the premises

We ask that this provision be removed if subsection “h” is not removed

- a. Again, establishment entrances will be heavily monitored by video surveillance as required for the state license
- b. For security purposes, adding windows creates a huge security liability as it makes break-ins less difficult. If you look at any liquor store in Las Cruces/Doña Ana (open or recently closed), there are few if any windows on the front of the building and they are most certainly not positioned for employees to monitor the parking lots. This would increase not decrease the likelihood of crime.
- c. For retail:
 - a. Adding windows is an incredible expense and may make some of the already limited commercial space available in Mesilla unusable for cannabis retailers
 - b. Lessees may find it difficult to get landlord permission to get windows which would disproportionately affect small businesses like ours that cannot afford to buy/build commercial property
- d. For production
 - a. Cannabis requires light restriction in order to flower. Windows would allow sunlight in during the day and make producers unable to grow for 6 months out of the year.
- e. For manufacturing/production
 - a. Most manufacturing and production processes occur in greenhouses/warehouses which feature no windows and are structurally unsound if modified.

15. Section 6(l): “ventilation system with carbon filters”

We ask that the term “carbon filters” be removed or be modified to say “such as carbon filters”

- a. Carbon filters are not the only available air filtering technology and the prevalence of grows throughout the U.S. makes it likely that innovation may occur that renders “carbon filters” obsolete. By codifying “carbon filters,” Mesilla could obligate businesses to spend additional money for outdated tech or be forced to change the regulations.
- b. The language “sufficient in type and capacity to eliminate cannabis odors emanating from the interior to the exterior discernible by a reasonable person, including to any public property or right-of-way within the Town...” is more than enough to capture the intent and desired outcome of this subsection without “carbon filters” being specified.

16. Section 8: Changes to license

We would ask that this provision be removed as creates additional, unnecessary bureaucracy for rules already covered at the state-level

- a. (a) – As per 16.8.2.8 “General Operational Requirements for Cannabis Establishments: “A license shall not be transferred by assignment or otherwise other persons or locations”. A complete change of ownership would invalidate the license.
- b. (b) – As per 16.8.2.8 “General Operational Requirements for Cannabis Establishments: “A license shall not be transferred by assignment or otherwise other persons or locations” which means that a new location would already require a new license.
- c. (c) – A change in principals is already covered by 16.8.2.9 “Criminal History Screening Requirements” and any such change would be reflected in the license and subject the new principal to the full background check process. No need to duplicate/supersede SAstate efforts
- d. (d) – These kinds of changes are already covered in 16.8.2.25 and are explicitly subject to permitting/inspection/codes reviews as applicable which would involve notifying Mesilla anyways. Again, duplicated effort and unnecessary added bureaucracy.
- e. (e) – This would be covered in 16.8.2.25 if they modified the capability of surveillance and otherwise would be covered by existing rules that would require us to get a permit to substantially modify our parking lot or traffic flows so no need to duplicate.

17. Section 10: Establishment of New Fees

We ask that the committee substantially reduce or eliminate these fees (with the exception of the standard business license).

- a. No such fees exist to be licensed to sell alcohol in Mesilla, so why should a different standard be applied to cannabis?
- b. Also, these fees are nominal for large corporations but for a small startup they represent a huge up-front expenditure

If fees are reduced or unchanged, specify that they will not be due until after the license has been granted.

18. Sections 11 & 12: Renewals

We ask that the committee substantially reduce or eliminate the building inspection fee, records management fee and courier fee for renewals.

- a. No such fees exist to be licensed to sell alcohol in Mesilla, so why should a different standard be applied to cannabis?
- b. Cannabis businesses will bring in substantial additional revenues to Mesilla. There is no need to charge \$500 for inspections of a premises that will not have been substantially modified, and \$100 for records management when these businesses will be paying gross receipts taxes and local residents participating in cannabis business will more than cover these fees through local spending.

19. Sections 13: Revocation of license

We would like to see some language changes and expanded explanations for our peace of mind

- a. First, change “Revocation of license” to say “License violations”
- b. Second, remove the term “Federal law” from subsection (a) since technically any cannabis business owner could be arrested if this provision was enforced and it would make cannabis establishment licenses inherently subject to revocation.
- c. Third, add language to specify “other appropriate action” such as probation, fines, remediation.

Expanded comments on the Ordinance 2021-02:

1. Added literature for the consideration of the committee.

Attached to this message are articles and reports examining the effects of cannabis dispensaries on public safety which I will summarize below.

- a. Article 1a: Special Report: Debunking Dispensary Myths
 - i. This article looks at crime/public health & safety data for areas with legal cannabis retail and finds that cannabis retailers have
 - 1. No effect (or a negative effect) on crime rates for crimes such as burglaries, robberies and assaults which people mistakenly associate with dispensaries
 - a. Also examines how previous research suggesting crime increases with dispensary openings failed to account for a disproportionate police presence around dispensaries and the communities where they first opened
 - 2. No effect (or a negative effect) on teen use because taking cannabis out of the black market makes it more difficult for young people to access
 - 3. No effect or a positive effect on surrounding property values. In fact, housing located within 0.1 miles of dispensaries typically saw a 8.4% increase to the value of their property after opening relative to further properties in the same area.
 - ii. This article also examines the research that typically shows cannabis associated with negative
- b. Article 1b: Societal Impacts of Cannabis Dispensaries/Retailers
 - i. This article provides a summary of 19 studies examining the effects of cannabis retailers and shows:
 - 1. Dispensary openings are not associated with an increase in crime
 - 2. Dispensary openings are associated with rising housing values
 - 3. Dispensaries serve an older, wealthier clientele than the average cannabis user and they are typically seeking cannabis for therapeutic purposes
 - 4. Prevalence of dispensaries does not increase teen use
 - 5. Dispensaries are not selling to minors and their products are not being diverted to underage consumers
 - 6. Dispensaries reduce opioid consumption from the general public
- c. Article 1c: Cannabis businesses have a 100% chance of being audited
 - i. Due to federal regulations regarding cannabis (specifically 208e), filing taxes as a cannabis is extraordinarily complicated. Combine that with a largely cash-based

revenue stream and the question of an audit is not “if” but “when” for cannabis businesses.

2. Section 2(c): Character and record –

We would like this definition removed for several reasons:

- a. Cannabis businesses will be heavily regulated and monitored by the state and IRS. Between the intensive tracking paperwork, monitoring technology required by the state and the 100% likelihood of being IRS audited, people who are operating these businesses in violation of the law will lose their licenses.
- b. The state has already outlined what criminal/civil activities make a licensee ineligible for a business license including but not limited to: history of embezzlement, failure to pay taxes, trafficking involving children, and currently holding a liquor license. We will be subject to background checks and other verifications of character. Furthermore, one of the explicit objectives of HB2 is to make sure that people who were historically disenfranchised by cannabis prohibition will have access to the proceeds of legalization. Their guidelines for what makes someone ineligible for a cannabis license are more than sufficient and local guidelines attempting to supersede these disqualifications in a way that would disproportionately affect people of color and indigenous people (as many of these would) would most likely be in conflict with state law.
- c. This definition is dangerously subjective. For example, could moral character include consuming cannabis before legalization? Engaging in pre-marital sex/cohabitation? Swearing in public? We are especially concerned that this provision provides a lot of room for discrimination against women, people of color, and LGBTQ+ people who are disproportionately negatively affected by these kinds of subjective “moral” clauses.
- d. This clause implies that cannabis dispensaries pose some type of extraordinary risk that could not be managed by a person of normal or even substandard moral character - an idea that would never be applied to a standard business license or a business perceived as generally safe (as the research referenced earlier demonstrates).

3. Section 2(h): Cannabis manufacturing

We would like a subcategory of “cannabis cottage industry” or similar term created as well as definitions added for associated terms:

Cannabis manufacturers will not all be homogenous. The state has largely not provided a lot of nuances about this but just speaking from what we plan to do, our manufacturing will be more equivalent to cottage industry/light industry than industrial manufacturing. We are hoping to be able to do this all on site because it will be no more dangerous than a bakery or an artisanal salsa company. As such we propose the following:

- a. Keep the definition of “cannabis manufacturer”
- b. Add definition for “hydrocarbon solvents” that reads: “volatile, petroleum-derived solvents including but not limited to hexane, gasoline, kerosene, white spirit, benzene, toluene, and xylene.”
- c. Learn more at: <https://www.americanchemistry.com/industry-groups/hydrocarbon-solvents>
- d. Include another definition for “cannabis cottage industry” or “cannabis light industry” which would be “a type of cannabis manufacturer whose activities meet the following criteria: 1) no activity producing noise, glare or heat observable or measurable outside the building; 2) no emission of objectionable dust, fumes, odors, vapors, gases, smoke or other forms of air pollution; 3) no vibration which is discernible beyond the property lines to the human sense of feeling for three minutes or more duration in any one hour of a day, 4) no extraction activity using hydrocarbon solvents
 - i. Notes: 1-3 are borrowed from the Las Cruces city code definition for “low-intensity industrial” (Section 38-49.3(E)(f)) and 4 was added due to the specific nature of cannabis manufacturing.
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4. Section 2(j): Cannabis producer microbusiness

Requesting a slightly modified definition here as mentioned in the previous message

Again, this expansion is important because the restrictions on “vertically integrated microbusiness” would make us ineligible to sell other producers products OR begin growing at a second location should we choose to expand.

- a. Original definition: “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.
- b. Added to the end: “As long as no more than 200 plants are grown on a single premises, a licensee will be considered a ‘producer microbusiness’ regardless of their state license classification”

5. Section 2(s): Harm

We would like this definition and the subsequent clause that references it (6-k) removed for several reasons.

- a. Businesses that operate liquor establishments in Mesilla have no such subjective clauses governing the issuance of their municipal liquor licenses or business licenses.

- b. For reasons similar to the “character and record” definition discussed earlier, such a clause would disproportionately target people historically disenfranchised by cannabis prohibition in opposition to HB2. As a company that intends to have a Black man running our retail operations, we would be **very** concerned that this subjective clause could allow people with implicit biases the ability to shut down our business without just cause.
- c. Furthermore, this clause suggests that no actual demonstration of harm is required only the “perceived” and “threatened” harm. For a cannabis business, this is tantamount to a soft prohibition after 50 years of anti-cannabis propaganda and a federal prohibition on research regarding the benefits of cannabis use and legalization.
- d. Lastly, what harm would this clause seek to prevent that is not already covered by existing codes, ordinances, and laws? Let the only harm a cannabis business needs to worry about be that which it has actually caused and for which they are absolutely liable under existing laws.

6. Section 4(b): The applicant shows provisional proof of a valid State of New Mexico cannabis license.

We would like this condition removed

- a. There’s no reason for Mesilla to look at a “provisional license” when an actual cannabis license will not be granted by the state unless all documentation is provided, and section 4(o) already covers that those businesses must “meet all requirements”. This just creates an extra step of bureaucratic nightmare for applicants. In lieu of a provisional license, Mesilla could ask to see a printout of the application in progress or the inclusion specific documents that it requires. Anything that doesn’t subject businesses to a 90-day, ambiguous waiting period from the state.
 - i. I understand that this is a long shot, but I would just like to say that we submitted a request for a provisional license over a month ago and have not heard anything regarding the progress of that submission. I have called to ask and been told they can give me no timeline. For big businesses that were able to locate in places where there are no zoning codes and who had all of their buildings constructed and inspected, this requirement poses minimal burden. For small businesses like ours, it could prevent us from growing in 2021 or opening retail in 2022.

7. Section 4(g): “A combined retail and production, manufacturing or growing establishment is not allowed in these zones”

We would like “cannabis cottage industry” listed as an exception

- a. In line with suggestion 2, we would like this portion of the ordinance to read as follows:
“A combined retail and production, manufacturing or growing establishment is not

allowed in these zones with the exception of cannabis cottage industry meeting all 4 requirements.”

- i. This is important for a business like ours that would like to have a licensed commercial kitchen in which to do rosin press extractions and make gourmet edibles as well as other products from our homestead (jams, jellies, soaps). We want to make artisanal, locally produced goods (not just cannabis!) that will make Mesilla proud.

8. Section 4(j): 500 ft buffer zone between cannabis establishments

We would ask that this provision be removed because it is based on a faulty premise that cannabis establishments negatively affect health and safety

- a. This provision would essentially limit the number of cannabis establishments to 1 or maybe 2 in the Historic Commercial district with no opportunity for a special use permit. With the lack of available commercial real estate to lease in Mesilla, this could easily create an opportunity for the big cannabis corporations to lease one or two central locations and make it impossible for small businesses like ours to find a space if one opens. By creating an opportunity for monopoly, Mesilla runs the risk that there would be only one, low-quality, out-of-state corporation selling cannabis in downtown Mesilla. We believe this would be bad for several reasons:
 - i. Fewer profits paid to locals/spent by locals
 - ii. Lower quality product for local consumers
 - iii. Reduced tourism draw for Mesilla
- b. Additionally, we do not believe this buffer is written with a consideration for the spirit of the plaza which features several bars, breweries, and restaurants that serve alcohol and make a considerable portion of their revenues from alcohol revenues after food service has ended (i.e. from operating as a bar, not a restaurant). Part of the tourist appeal of Mesilla is the walkability of its downtown and forcing buffer zones between competing cannabis businesses does not enhance that quality.
- c. Lastly, the free market will ultimately decide which businesses will thrive in Mesilla. Why deprive the town of gross receipts taxes from thriving businesses if the market can support more than one or two? The only reason I can think of would be the implication that these businesses pose some type or risk or harm to the local community and the research provided earlier illustrates that is not true.

If the committee refuses to remove this provision, we ask that the buffer be reduced and a special use permitting process be outlined to protect local startups against anti-competitive behaviors from large corporations

- a. Reduce the buffer zone as much as reasonably possible (preferably 100 ft)
- b. Explicitly allow a special use permitting process to override the buffer zone

9. Section 4(m): 300 ft buffer zone between cannabis establishments and schools

We would ask that this provision be removed because it is based on a faulty premise that cannabis establishments negatively affect health and safety and is not in the spirit of zoning

- a. For retail
 - a. See attachment "A -..." that shows how much of the viable commercial real estate this would eliminate in downtown Mesilla.
 - b. This is the MAXIMUM allowable buffer zone by the state, but Mesilla has the ability to use their own discretion to make a decision. Given that liquor, beer and wine sales are presently allowed directly across the street from a school in a store which children are allowed to enter, we believe that cannabis businesses should be provided the same ability if such commercial property becomes available.
 - c. Cannabis retailers reduce teenage cannabis use rates and there are next to no recorded instances of underaged sales (see earlier research) in part because of the heavy video monitoring of patients/customers in retailers.
 - d. We do not believe this provision is in the spirit of Mesilla's existing zoning regulations which allow
- b. For producers/manufacturers
 - a. There are already provisions about smells, secure fencing, top-quality alarm systems, and visibility of cannabis operations. Why should these businesses be spaced away from schools when they are already legally required to be as imperceptible as possible and extremely secure?

10. Section 4(j) & (m): 300 ft buffer zone between cannabis establishments + 500 foot business buffer

Please see attachment "B - ..." to see how the combination of these ordinances would almost certainly create a cannabis monopoly on the Plaza

11. Section 4(p): All employees must be 21 years of age

We would ask that this provision be removed since it is already covered in state law and will be monitored by the state, and is covered in Section 4(q) so all this does is add unnecessary bureaucracy.

12. Section 5(b): R1 zone – Microbusiness allowed if ancillary to single-family home

Add "Cannabis cottage industry" to this permissible use

- a. As mentioned early, these industries are imperceptible and this would allow more artisanal, locally produced cannabis edibles, tinctures, topicals and *safe* extracts.

13. Section 6, subsections g & h: regarding limited-access areas and security requirements

We would ask that these provisions be removed since they are already covered in state law and will be monitored by the state as a part of the licensing process, so all this does is add unnecessary bureaucracy and expense for the Town and licensee.

14. Section 6(h)v: Windows to monitor people entering and leaving the premises

We ask that this provision be removed if subsection “h” is not removed

- a. Again, establishment entrances will be heavily monitored by video surveillance as required for the state license
- b. For security purposes, adding windows creates a huge security liability as it makes break-ins less difficult. If you look at any liquor store in Las Cruces/Doña Ana (open or recently closed), there are few if any windows on the front of the building and they are most certainly not positioned for employees to monitor the parking lots. This would increase not decrease the likelihood of crime.
- c. For retail:
 - a. Adding windows is an incredible expense and may make some of the already limited commercial space available in Mesilla unusable for cannabis retailers
 - b. Lessees may find it difficult to get landlord permission to get windows which would disproportionately affect small businesses like ours that cannot afford to buy/build commercial property
- d. For production
 - a. Cannabis requires light restriction in order to flower. Windows would allow sunlight in during the day and make producers unable to grow for 6 months out of the year.
- e. For manufacturing/production
 - a. Most manufacturing and production processes occur in greenhouses/warehouses which feature no windows and are structurally unsound if modified.

15. Section 6(l): “ventilation system with carbon filters”

We ask that the term “carbon filters” be removed or be modified to say “such as carbon filters”

- a. Carbon filters are not the only available air filtering technology and the prevalence of grows throughout the U.S. makes it likely that innovation may occur that renders “carbon filters” obsolete. By codifying “carbon filters,” Mesilla could obligate businesses to spend additional money for outdated tech or be forced to change the regulations.
- b. The language “sufficient in type and capacity to eliminate cannabis odors emanating from the interior to the exterior discernible by a reasonable person, including to any public property or right-of-way within the Town...” is more than enough to capture the intent and desired outcome of this subsection without “carbon filters” being specified.

16. Section 8: Changes to license

We would ask that this provision be removed as creates additional, unnecessary bureaucracy for rules already covered at the state-level

- a. (a) – As per 16.8.2.8 “General Operational Requirements for Cannabis Establishments: “A license shall not be transferred by assignment or otherwise other persons or locations”. A complete change of ownership would invalidate the license.
- b. (b) – As per 16.8.2.8 “General Operational Requirements for Cannabis Establishments: “A license shall not be transferred by assignment or otherwise other persons or locations” which means that a new location would already require a new license.
- c. (c) – A change in principals is already covered by 16.8.2.9 “Criminal History Screening Requirements” and any such change would be reflected in the license and subject the new principal to the full background check process. No need to duplicate/supersede SAstate efforts
- d. (d) – These kinds of changes are already covered in 16.8.2.25 and are explicitly subject to permitting/inspection/codes reviews as applicable which would involve notifying Mesilla anyways. Again, duplicated effort and unnecessary added bureaucracy.
- e. (e) – This would be covered in 16.8.2.25 if they modified the capability of surveillance and otherwise would be covered by existing rules that would require us to get a permit to substantially modify our parking lot or traffic flows so no need to duplicate.

17. Section 10: Establishment of New Fees

We ask that the committee substantially reduce or eliminate these fees (with the exception of the standard business license).

- a. No such fees exist to be licensed to sell alcohol in Mesilla, so why should a different standard be applied to cannabis?
- b. Also, these fees are nominal for large corporations but for a small startup they represent a huge up-front expenditure

If fees are reduced or unchanged, specify that they will not be due until after the license has been granted.

18. Sections 11 & 12: Renewals

We ask that the committee substantially reduce or eliminate the building inspection fee, records management fee and courier fee for renewals.

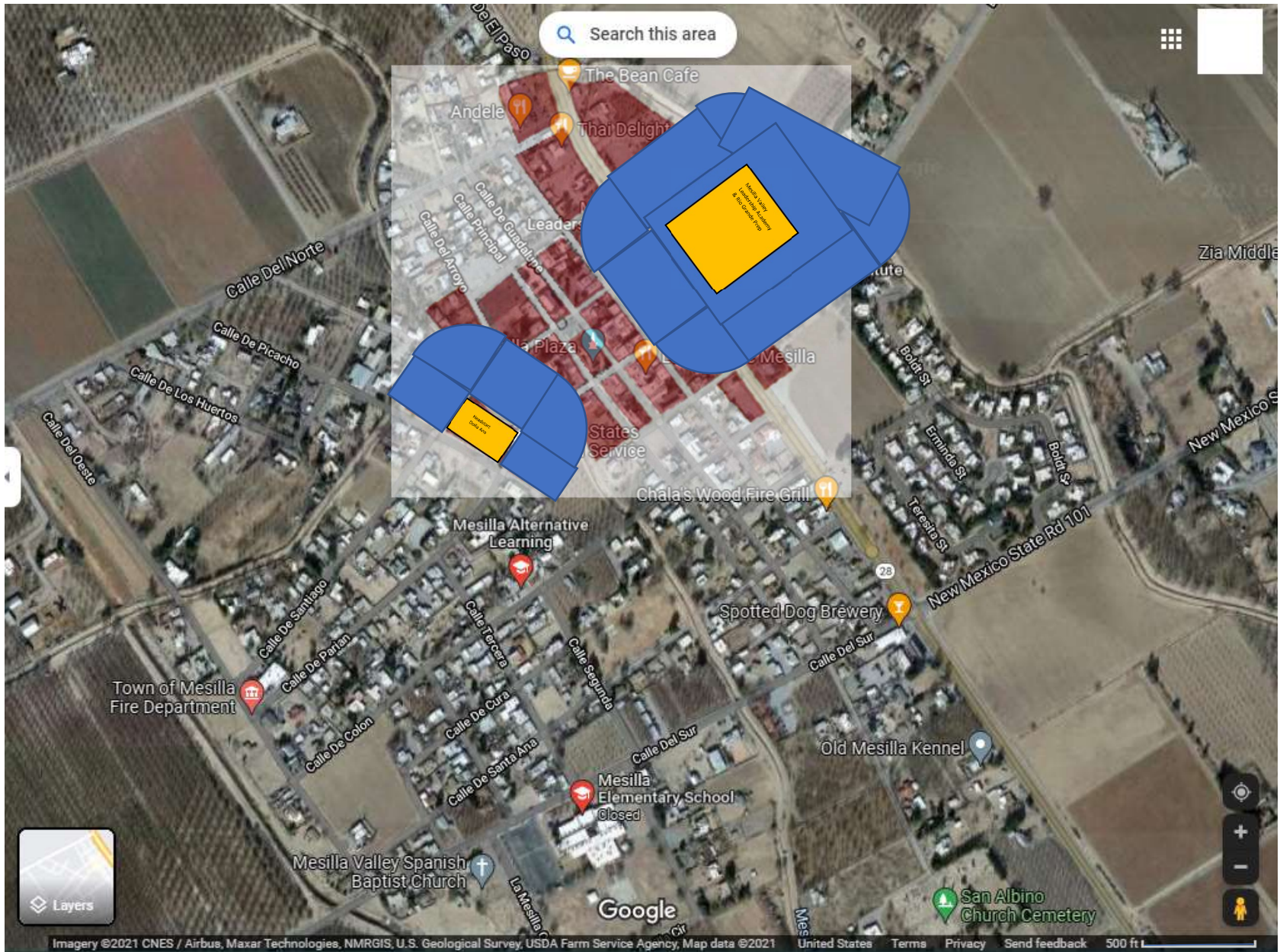
- a. No such fees exist to be licensed to sell alcohol in Mesilla, so why should a different standard be applied to cannabis?
- b. Cannabis businesses will bring in substantial additional revenues to Mesilla. There is no need to charge \$500 for inspections of a premises that will not have been substantially modified, and \$100 for records management when these businesses will be paying gross

receipts taxes and local residents participating in cannabis business will more than cover these fees through local spending.

19. Sections 13: Revocation of license

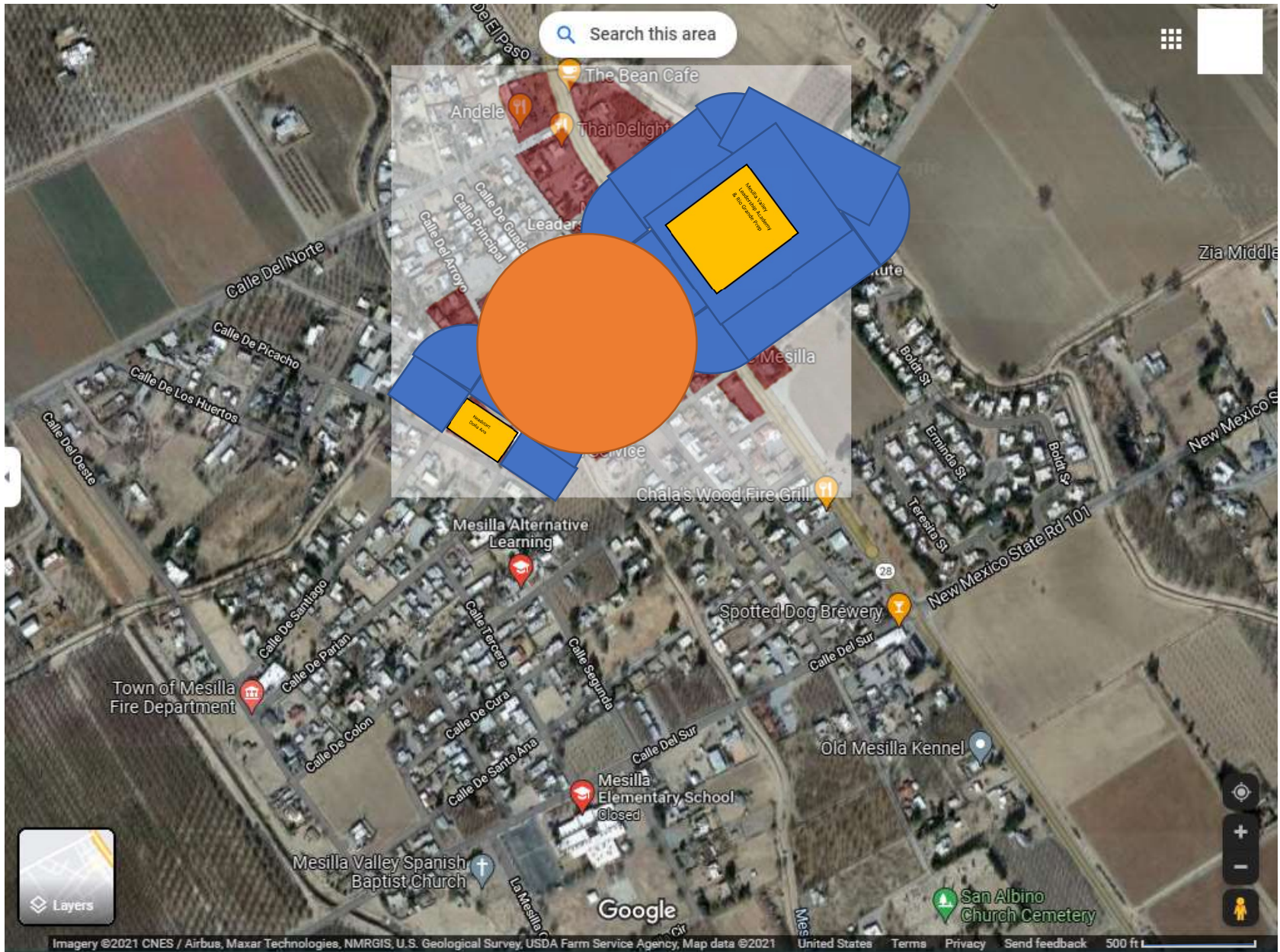
We would like to see some language changes and expanded explanations for our peace of mind

- a. First, change “Revocation of license” to say “License violations”
- b. Second, remove the term “Federal law” from subsection (a) since technically any cannabis business owner could be arrested if this provision was enforced and it would make cannabis establishment licenses inherently subject to revocation.
- c. Third, add language to specify “other appropriate action” such as probation, fines, remediation.



Visualization of how the 300 ft school buffer would affect retail availability in Downtown Mesilla

- Legend:
- School/Daycare
 - 300 ft buffer



Visualization of how the 300 ft school buffer would affect retail availability in Downtown Mesilla

Within the buffer you will find: NM Vintage market: a store that sells liquor, beer and wine and which children would be permitted to enter

Legend:

■ School/Daycare

■ 300 ft buffer for schools

■ 500 ft buffer for establishments



Special Report: Debunking Dispensary Myths

Literature Review Finds Cannabis Stores Are
Associated With Lower Crime, Decreased Teen Use,
and Increased Property Values

By David Downs and Bruce Barcott, Leafly
With Dominic Corva, Ph.D.; co-director, Humboldt Institute for
Interdisciplinary Marijuana Research; founder, Center for the Study of
Cannabis and Social Policy

May 2019



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Abstract

Common political objections to the siting of cannabis retail stores in a given area often center on the supposed negative consequences the stores will bring to that area. However, a systematic literature review of studies on the impacts cannabis retailers have on the surrounding community actually refutes key assertions regarding the supposed negative impacts of dispensaries and/or stores on crime, underage use, and property values. In fact, the broad body of research reviewed in this paper suggests the opposite is occurring: Crime near licensed dispensaries has generally stayed flat or decreased, teen cannabis use in legal states has fallen since legalization, and property values near cannabis outlets generally are not affected or, in some cases, experience a greater value increase than comparable properties not near a cannabis outlet.

DEBUNKING DISPENSARY MYTHS: INTRODUCTION

Legal, but Not Local

Americans are embracing cannabis legalization at record levels. Two out of three Americans now support legalization for all adults (CBS News poll, April 2019). As of early 2019, 34 states have legalized the medical use of cannabis. Ten states—plus Washington, DC—have declared it legal for adult use.

Yet legalization doesn't mean all patients and adult consumers enjoy the same freedoms.

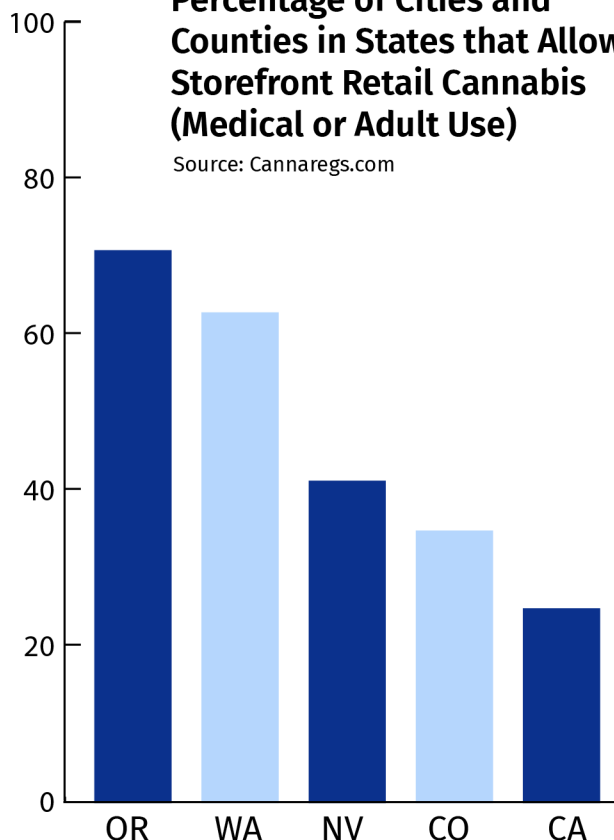
All state legalization laws allow municipalities to permit or prohibit cannabis sales within their jurisdictions. At the city and county levels, a number of lawmakers have responded to statewide legalization with ordinances banning all state-licensed cannabis companies within their jurisdiction. Others prohibit cannabis stores under the theory that they attract or foment criminal activity. These cannabis bans effectively reinstitute cannabis prohibition for local residents and encourage the illegal cannabis market to flourish.

AS OF MAY 1, 2019:

- CA** In California, 75% of jurisdictions have banned cannabis stores
- CO** In Colorado, 65% of cities and counties have similar bans
- MA** In Massachusetts, 54% of the state's 351 municipalities have banned cannabis stores
- WA** In Washington, 35% of cities and 20% of counties have banned cannabis stores.
- NV** In Nevada, 75% of counties and 42% of cities prohibit cannabis stores

Percentage of Cities and Counties in States that Allow Storefront Retail Cannabis (Medical or Adult Use)

Source: Cannaregs.com



WHERE AND HOW BANS HAPPEN

Local cannabis bans tend to happen predominantly in suburban and rural districts in the aftermath of statewide legalization. At city council meetings, citizens and elected officials often voice fears about retail stores as a visual blight and a locus for criminal activity. Parents worry that a store could offer their children easier access to cannabis.

These debates are often rife with misinformation based on 80 years of government dishonesty and drug war hyperbole. The three most common myths center on the

notions that licensed cannabis retailers spur an uptick in crime, increase teen use of the drug, and cause property values to decline (Hughes, 2018).

Here are a few examples of more recent local concerns aired in California, Nevada, and Massachusetts:

Marijuana Production Faces 'War' From Asian American Communities

"You will hear helicopters overhead, people shooting in the street, maybe prostitutes walking around," said Daniel Ding, of Temple City, CA. "It will destroy the city." (Los Angeles Times, 2019).

Nevada City Council Moves Forward With Adult-Use Cannabis Ordinance

Several audience members spoke against allowing adult-use cannabis businesses, including former county Supervisor Nate Beason. "You need to consider the residents," Beason said. "We'll reach a point where something bad is going to happen ... This will change the character of our town." (The Nevada County Union, 2018)

The Marijuana War Has Gone Local

"We have a brand-new youth center, a state-of-the-art library—all these beautiful things to attract families—and now we're going to bring retail pot shops in?" said Milford Selectman Mike Walsh. (Boston Globe, 2017)

Residents Say Pot Shop Will Ruin Neighborhood

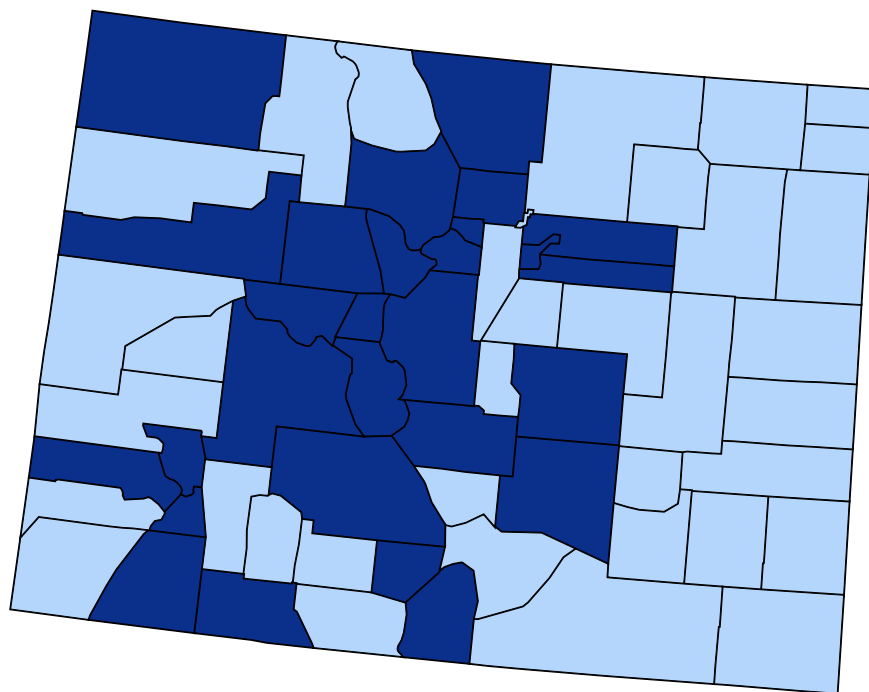
During a community meeting, residents of Haverhill voiced outrage that their neighborhood was zoned as a recreational marijuana establishment district. "We don't want you here," said Joel Bissonnette, an Elliott Street resident. "Go to Ward Hill." (The Haverhill Gazette, 2019)

During these debates, some residents and local leaders make their desire clear: Keep the cannabis stores in the big cities. Let Denver, Seattle, Portland, Boston, or Los Angeles go first. Others want to push it into the next town over: "Go to Ward Hill."

There's often an unspoken belief that banning cannabis stores will prevent cannabis from entering a community, as if patients and consumers reside only in metropolitan areas and aren't already in the local community.

A certain amount of virtue signaling also comes into play: *We're not the kind of people who use marijuana.* This can be a powerful motivator, even inspiring municipal authorities to act against the expressed desire of their own constituents—a majority of local residents vote for legalization, but then a handful of local officials prohibit cannabis businesses.

Colorado County Cannabis Bans



Colorado famously legalized cannabis for all adults in 2012. But 38 of the state's 64 county governments have banned cannabis stores, resulting in a patchwork of legal and prohibition counties.

ONGOING LOCAL LICENSING DEBATES

The concept of local control wasn't created by the cannabis legalization movement. It predates the existence of the United States.

All states follow existing legal precedent with regard to the enormous zoning and police powers of local cities and counties. Local authorities generally control all aspects of local cannabis commerce. They have the power to ban it entirely or to set the time, place, and manner in which it operates.

California, the world's biggest cannabis market by population, approved adult-use legalization by a 57% vote in 2016 and began licensing adult-use retail stores in December 2017. Sales began on Jan. 1, 2018. Even though adult-use stores have been legal for more than a year, a majority of communities—39 counties and 396 incorporated cities and towns—continue to prohibit cannabis stores within their borders.

In Massachusetts, where adult-use legalization—Question 4—passed by 54%, local licensing debates are taking on increasing urgency due to an upcoming deadline. Counties and towns have until June 30, 2019, to make a final decision on allowing or prohibiting cannabis retail stores. So far, 189 of the state's 351 municipalities have banned adult-use cannabis stores. Only 30 municipalities currently allow them.

Michigan residents voted in favor of statewide legalization in November 2018, passing Proposal 1 by a vote of 56% to 44%. But now comes the hard part: ending cannabis prohibition at the local level, or even keeping track of what's

Even though adult-use stores have been legal for more than a year in California, a majority of communities—39 counties and 396 incorporated cities and towns—continue to prohibit cannabis stores within their borders.

legal where. Michigan has 83 counties, 276 cities, 257 villages, and 1,240 townships, but no digital reporting mandate regarding cannabis regulations (Ostrowsky, CannaRegs), so it's going to be difficult to track implementation.

As cannabis legalization continues to spread to more states, communities across America will find themselves with the opportunity to weigh in on the appropriate place of cannabis in their communities. Each governing body will handle the decision its own way. These discussions should be informed by the best available information and research, not imagined fears and archaic mythology.

52%

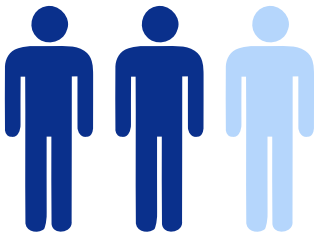
of all Americans report having used cannabis at least once

Source: Marist Poll, 2017

Timeline: The Rise of Retail Cannabis in the US

1937	Federal prohibition begins under Marihuana Tax Act.
1940s	Medical cannabis formulations disappear from pharmacy shelves.
1994	Cannabis Buyer's Club of San Francisco opens.
1996	California legalizes medical cannabis with no licensing or regulation.
1998	Alaska, Oregon, Washington legalize medical cannabis with no licensing or regulation.
2000	Colorado and Nevada legalize medical cannabis with no licensing or regulation.
2004	California Senate Bill 420 creates a legal defense for dispensaries. Unlicensed dispensaries open across California. San Francisco begins licensing medical cannabis dispensaries.
2010	Colorado regulates its medical dispensaries. Arizona legalizes medical cannabis and state-licensed dispensaries.
2011	Federal prosecutors step up asset forfeiture campaign against California dispensaries.
2012	Colorado and Washington legalize adult use of cannabis, with licensing and regulation.
2013	Justice Department's Cole memo takes federal crosshairs off licensed medical and adult-use retailers.
2014	Adult-use cannabis sales begin as licensed stores open in Colorado and Washington. New York legalizes medical cannabis, with licensed dispensaries. Washington, D.C., voters legalize adult use of cannabis, but Congress blocks efforts to license and regulate retail stores.
2016	Voters in California, Massachusetts, Nevada, and Maine legalize the adult use of cannabis. Florida voters legalize medical marijuana.
2017	Adult-use cannabis stores open in Nevada. Licensed medical dispensaries open in Hawaii and Maryland.
2018	Adult-use cannabis stores open California and Massachusetts. AG Jeff Sessions rescinds Cole Memo. Oklahoma legalizes medical cannabis. Michigan votes to legalize adult-use cannabis. Vermont legislature votes to legalize adult cannabis possession, but does not allow retail sales.

Source: Marijuana Policy Project, California NORML



2 out of 3 Americans now support legalization for all adults

Source: CBS, 2019

PUBLIC SAFETY MYTHS

Since the 1930s, cannabis critics have claimed, without proof, that the slightest interaction with the plant leads to a life of addiction, debauchery, and crime. Cannabis has often been used by people of lower income (Caulkins, Davenport, 2016) who interact more with law enforcement (La Vigne, 2017).

Many people—including law enforcement officials—frequently mistake correlation with causation when it comes to the possession of cannabis among suspects. For example: Research suggests that about 72% of tobacco smokers come from lower-income communities (Truth Initiative, 2018). Those communities also experience a greater police presence than higher-income communities (Shi, 2016). That doesn't mean cigarette smoking causes crime.

These misconceptions and stereotypes don't just drive local zoning decisions; in some cases, local zoning can create them.

Consider the history of medical cannabis in Los Angeles. California legalized the medical use of cannabis in 1996. In LA, the city's first unlicensed dispensaries opened by 2000. The lack of regulation propelled a dispensary boom. Those dispensaries tended to open in lower-value property neighborhoods and in areas with higher crime rates (Nemeth, 2014). Once medical cannabis became correlated with higher-crime areas, people quickly—and mistakenly—inferred that cannabis dispensaries cause crime.

TEEN USE MYTHS

Teen access to cannabis has been relatively easy nationwide since the 1970s (MacCoun, 2011). Yet proponents of local cannabis bans act like stores bring cannabis into a community for the first time.

Ban advocates also assert that legalization states have higher rates of teen use, and that the rate is associated with current policy (RMHIDTA, 2017). But for decades, legalization states like California and Colorado have had higher general rates of cannabis consumption (Cerda, 2012).

At community meetings, some parents express fears of cannabis sales to youth or that minors will obtain it by theft. Some claim a store's presence will lower a minor's fear of cannabis, thus encouraging young people to try it.

PROPERTY VALUE MYTHS

During local debates about zoning cannabis stores, some critics assume the past social stigma attached to cannabis will decrease the property value of homes and businesses near a licensed cannabis store.

They expect an increase in crime will drive house prices down or that the business type will make other negative impacts to neighborhood noise, traffic, or odor, similar to a convenience store.

DEBUNKING DISPENSARY MYTHS: PART I

Literature Review Methodology

In this report, Leafly reporters, researchers, editors, and data analysts conducted the world's first-ever literature review of studies that test three key assertions on this topic.

We were advised by Humboldt State University co-director for the Humboldt Institute for Interdisciplinary Marijuana Research, Dominic Corva. Working with Corva, Leafly editors conducted a thorough survey of all available studies and followed up with an analysis of study validity, prioritizing the most impactful and generalizable findings.

We spent weeks reviewing academic journals and databases, considering more than 100 studies, digging into study methodology, and following up with study researchers for more information and context.

We identified 42 studies, research papers, and surveys that directly touched on the subject. We reviewed scholarly databases such as PubMed, Google Scholar, and NIH; private research groups such as RAND; government websites including the ONDCP; and health departments in legalization states. We identified periodicals that cited studies, then pulled those studies and followed the trail of citations to find even more related work.

We reviewed studies for validity, general applicability, accuracy, and timeliness—using as a proxy the number of times each paper was cited, number of contributing researchers, location of publication, study time period and publication date, level of peer review, and size and scope of the study. We also looked for evidence-based model assumptions, methodological rigor, as well as realistic and comprehensive discussion of study limitations and generalizability. We scored each study for

its strength on a scale of 1 to 4 based on those factors. For example, personal Realtor survey data has less strength than longitudinal home value reports over time for a given city block.

We collected and ranked the most prominent studies on the topics in a matrix, which we've attached in this report's Appendix.

We used the professional services of CannaRegs, the world's most current, in-depth cannabis legislative and regulatory database, to ascertain the level of retail store access in legal adult-use states. To add narrative accounts to the data, we also obtained qualitative, anecdotal accounts from local officials familiar with the impact of cannabis stores on their communities.

Literature review limitations are noted in the Appendix.

A NOTE ON LANGUAGE

The word “dispensary” came into use when medical marijuana retail collectives opened in the San Francisco Bay Area in 2004.

Since the advent of adult-use legalization, the term “dispensary” has also included retailers serving all adults age 21 and older. Language evolves, and it's now trending in the direction of “stores” for adult-use retailers and “dispensaries” for medical marijuana shops.

We try to maintain that distinction when possible, but there are occasions when “store” or “dispensary” is meant to cover both medical and adult-use cannabis retailers—a situation reflected in many states, where a single retailer may serve both the adult-use and medical markets.

DEBUNKING DISPENSARY MYTHS: PART II

Findings

Based on the findings from 42 key studies, we discovered that the vast majority of the best, most recent data contradicts three key myths about the impact of cannabis dispensaries on local communities.

CRIME FALLS

The Green Mile is not a hotbed of criminal activity, the source of vehicle accidents from an influx of traffic or a known source behind more youths using cannabis, Port Hueneme Police Chief Andrew Salinas said. Instead, the cannabis businesses for which the strip is named are helping the city get back on its feet financially, adding jobs and playing a meaningful civic role in the city, Salinas said.

Ventura County Star, March 29, 2019

Cannabis stores function like standard consumer packaged goods (CPG) retailers, on a design spectrum from corner bodegas to high-end boutiques. One key feature is strict licensure and regulations that require ample security, such as guards, cameras, lighting, and space access controls.

Using street-level data from cities including Sacramento, Washington, DC, and Los Angeles, studies suggest that licensed cannabis dispensaries have no impact, or an insignificant effect, on various kinds of crime (Zakrzewski, 2019; Brinkman, 2017).

“Results indicated that mean property and violent crime rates within 100-foot buffers of tobacco shops and alcohol outlets—but not medical marijuana dispensaries—substantially exceeded community-wide mean crime rates” (Subica, 2018).

Researchers examining the temporary closure of



We find no effects on burglary, robberies, or assaults, which are the types of crimes one would expect if dispensaries were prime targets as a result of their holding large amounts of cash.

Source: Pacula, 2018



hundreds of dispensaries in Los Angeles in 2010 reported that “contrary to conventional wisdom, we find no evidence that closures decreased crime.” In fact, there was “a significant relative increase in crime around closed dispensaries,” as much as 24% in some places (Chang, 2017).

A study of California counties found “a negative and significant relationship between dispensary allowances and property crime rates, although event studies indicate these effects may be a result of pre-existing trends” (Hunt, 2018).

“These results suggest that the density of medical marijuana dispensaries may not be associated with crime rates or that other factors, such as measures dispensaries take to reduce crime (i.e., doormen, video cameras), may increase guardianship such that it deters

possible motivated offenders” (Kepple, 2012).

Only one strong study (Freisthler, 2017) found an association between cannabis retailers and property crime. Those researchers found that “densities of marijuana outlets were unrelated to property and violent crimes in local areas. However, the density of marijuana outlets in spatially adjacent areas was positively related to property crime in spatially adjacent areas over time.” In other words, the study found that crime increased in areas further away from dispensaries and their security.

One weak study found mixed results. In a 2012–2013 study of unregulated medical marijuana dispensaries in the city of Long Beach, CA, researchers found no crime increase in the immediate vicinity of dispensaries but a slight rise in outlying areas (Freisthler, 2016).

At the state level, the most-cited studies suggest crime stays flat or goes down amid a store opening. An overwhelming majority of the studies available found no increase in crime related to the location of dispensaries or stores.

One widely cited report by a police group asserted that cannabis stores were associated with increased crime. We include this report for transparency, although many independent reviewers have dismissed its conclusions as invalid. The 2017 report by the Rocky Mountain High Intensity Drug Trafficking Area (HIDTA), a federally funded program run by drug enforcement officers and established by the White House Office of Drug Control Policy, claimed that “marijuana is the gateway drug to homicide.” The report also stated that a rise or fall in annual crime rates should not be construed as “due to the legalization of marijuana” (RMHITDA, 2017).

At the national level, the White House Office of National Drug Control Policy, in its own 2013 survey of the literature, concluded that cannabis use doesn’t lead consumers to commit crime.

“Even though marijuana is commonly used by individuals arrested for crimes,” the report found, “there is little support for a contemporaneous, causal relationship between its use and either violent or property crime” (ONDCP, “Improving the Measurement of Drug-Related Crime,” 2013).

TEEN USE DOES NOT RISE

Using data from the national and state Youth Risk Behavior Surveys, the National Longitudinal Survey of Youth 1997 and the Treatment Episode Data Set, we estimate the relationship between medical marijuana laws and marijuana use. Our results are not consistent with the hypothesis that legalization leads to increased use of marijuana by teenagers.

“Medical Marijuana Laws and Teen Marijuana Use,” National Bureau of Economic Research, 2014

Licensed dispensaries and retail cannabis stores must check IDs to ensure consumers are 21 or older. In some states the age is 18 for licensed medical marijuana dispensaries. They use cameras and track-and-trace software to prevent diversion to illegal jurisdictions. Sales tax revenue is often earmarked for youth prevention programs. And as the price of legal, regulated cannabis falls in the years after the opening of a state’s retail market, so may the profit motive to sell it illicitly.

Teen use—as shown by more than a dozen papers and national self-reported youth health surveys—is not directly impacted by the opening of cannabis dispensaries.

No study has performed block-level or city-level analysis of a dispensary’s effect on teen use. The best information available is state-level data tracked across broad periods of medical and adult-use retail expansion. A minority of studies reported a negative impact, and in those studies the negative impact was weak and limited to certain subgroups.

- Federally funded surveys of teens find rates of

youth cannabis use in the past month among minors aged 12 to 17 have decreased since 2002, the dawn of medical cannabis dispensaries in the US. The 2016 US teen use rate was the lowest in more than 20 years.

- In California, the most current, in-depth, independent survey data show cannabis use among seventh grade students dropped 47% from 2013 to 2017. Hundreds of medical cannabis dispensaries operated during that period.

- State health officials in Colorado and Oregon both reported in 2018 that survey data showed cannabis use flat or down since licensed adult-use stores opened. Colorado's adult-use retail stores have been open since January 2014. Oregon's dispensaries began selling adult-use products in October 2015.

- In Washington, a 2018 study in JAMA Pediatrics reported the prevalence of cannabis use generally fell among Washington teens amid the adult-use retail sales launch of 2014 to 2016 when compared to the 2010 to 2012 period.

PROPERTY VALUES ARE NOT HARMED

In California, Carpinteria has emerged as the state's greenhouse cultivation epicenter. With last year's stats in, "crime has gone down, and property values have increased," locals there note. "This begs a question: Has the cannabis boogeyman lost its power?"

Coastal View, April 3, 2019

Modern cannabis retail stores are moving from the industrial fringes of town to prestige locations in high-value shopping districts. What were once unregulated, crudely adorned storefronts are now state-licensed, tightly regulated, and elegantly designed boutiques. The business type is subject to heavy local and state regulations to mitigate environmental impacts, including rules that regulate store signage and limit visual access to products from public areas. Those stores require significant financial investment, command premium rents,

and attract discerning customers. Most are clean, well lit, and welcoming additions to their neighborhoods.

The literature on the effects of dispensaries or stores on their neighbors is thinner but more detailed than on teen use. Most studies focus on older eras of lightly regulated or wholly unregulated medical marijuana dispensaries. The data from that period also contradict the claims of local cannabis ban advocates. The most authoritative peer-reviewed papers, which use block-by-block city data measured against property values over time, found a halo effect whereby home values increased an extra 8.4% near licensed dispensaries in Denver during the period of conversion from medical dispensaries to adult-use stores (Conklin, 2017).

Single-family residences close to a retail conversion (within 0.1 miles) "increased in value by approximately 8.4% relative to houses that are located slightly farther from a conversion (between 0.1 miles and 0.25 miles) in 2014 compared to the previous year" (Conklin, 2017).

At the city level, "legalizing retail marijuana on average increases housing values by approximately 6%" compared to cities that prohibit retail cannabis stores (Cheng, 2016).

At the national level, 75% of real estate agents in a 2018 industry survey told researchers that dispensaries did not impact nearby property values. Of those who did report an impact, 10% of Realtors said prices increased, while 12% to 14% reported a decrease in residential property values near dispensaries (National Association of Realtors Research Group, 2018).

Discussion: Crime Studies

The available data strongly suggest that licensed cannabis retailers are not associated with increases in crime. Studies vary in the degree of resolution they provide down to the property level, but they almost always trend against assertions of increased crime.

The leading papers come from the Institute for Labor Economics, the Federal Reserve Bank, Preventive Medicine, the Journal of Urban Economics, the Journal of Economic Behavior & Organization, the Journal of Drug Issues and the Journal of Studies on Alcohol and Drugs. Out of eight strong studies, only one found a relationship between cannabis retailers and a crime rate increase in spatially adjacent blocks.

The weakest studies had conclusions that were not supported by their data. The Rocky Mountain HIDTA annual impact report, which is often cited by advocates of cannabis bans, is one such study. John Hudak, senior fellow at the nonpartisan Brookings Institute in Washington, DC, called it “garbage,” noting that HIDTA is “notorious for using data out of context or drawing grand conclusions that data ultimately do not support.” Washington Gov. Jay Inslee and Attorney General Bob Ferguson called HIDTA’s allegations “outdated, incorrect and ... incomplete.” Oregon Gov. Kate Brown said that HIDTA’s data “does not (and frankly does not purport to) reflect the ‘on the ground’ reality of Oregon in 2017.”

WHAT MIGHT BE DRIVING THESE RESULTS?

Eyes on the Street

Medical dispensaries and adult-use stores often move into buildings that are vacant or in disrepair in neglected parts of town. These storefronts are often stripped and rebuilt or renovated using high-quality materials and sophisticated designs. The new stores employ staff members to ensure the safety and comfort of their customers. The stores also generate foot traffic that reduces opportunistic crimes. More “eyes on the street” make blocks safer (Chang and Jacobson 2017).

Cameras, Security Personnel

Most state regulatory agencies require dispensaries and retail stores to install and operate advanced security systems that include cameras, security guards, locks, and safes.

Decreased Illicit Trade

State-licensed dispensaries and stores may decrease the level of illicit cannabis trade (Chu, 2018).

Police Resource Savings

Ending the expenditure of tax money on low-level cannabis arrests frees up more police resources for higher-priority criminal cases (Makin, 2018).

DEBUNKING DISPENSARY MYTHS: PART III

Discussion: Teen Use Studies

Studies overwhelmingly conclude that, as a demographic, teens in adult-use states are not using more cannabis. The key studies in this area were published by Preventative Medicine, JAMA Pediatrics, Journal of Adolescent Health, and The Lancet Psychiatry. One of the strongest studies (Shi, 2016) found that “the availability of medical marijuana dispensaries was not associated with current use of marijuana among adolescents.”

One state-level study conducted during the dawn of the adult-use era in Washington and Colorado (Cerda, 2017) partially supported the assertions of cannabis ban advocates. That study found “marijuana use among 8th and 10th graders in Washington increased 2.0% and 4.1%, respectively, between 2010-2012 and 2013-2015; ... In Colorado, the prevalence of marijuana use pre-legalization and post-legalization did not differ.”

WHAT MIGHT BE DRIVING THESE RESULTS?

Stores Card Their Customers

All licensed cannabis retailers must check IDs (twice, in some jurisdictions) and serve only those 21 and older, or, in medical instances, patients 18 and older.

Decreased Illicit Market Motives

Legalization causes an initial spike in cannabis prices followed by a steady and gradual decline to a level that competes with the illicit market (Smart, 2017).

Taboo Reduction

Taxing and regulating cannabis removes it from the realm of teenage-rebellion taboos and places it alongside other adults-only activities. The perception of cannabis’s harm is falling among teens (Austin, 2018), but so are teen use rates (Dilley, 2018). Opponents of legalization often point to the perception of cannabis harm among teens as a worrying sign. But it’s more likely that teens are coming to a more fact-based, scientifically informed understanding of cannabis and its health risks—and that a deeper understanding is leading to lower use and abuse rates among minors.

Tax Resources Used for Youth Education

Most state and local legalization schemes earmark a portion of cannabis tax revenue for drug prevention programs. For example, California Proposition 64 earmarks \$50 million per year by 2023 for community reinvestment grants to local health departments. In 2018, about \$270 million in Washington cannabis tax revenue flowed to three state health departments. Some of these grants and programs aim to discourage teen use.

DEBUNKING DISPENSARY MYTHS: PART III

Discussion: Property Value Studies

We found that the strongest studies, as measured by our literature review scoring methodology, point out that dispensaries are associated with either increased property values or have no effect on them.

The most detailed peer-reviewed study available (Conklin, 2017) looked at Colorado dispensary impacts and found that “single family residences close to a retail conversion (within 0.1 miles) increased in value by approximately 8.4% relative to houses that are located slightly farther from a conversion (between 0.1 miles and 0.25 miles) in 2014 compared to the previous year.”

“In summary, the evidence from 2014-2015 paints a picture of economic growth, a tighter housing market, and lower crime rates, all while tax revenue is being generated for public works and marijuana usage is staying relatively flat. ... We find that after the law went into effect at the end of 2013” (Conklin, 2017).

Other studies offer less fine detail, but at the city level (Cheng, 2016) and at the state level (Realtor.com, 2016) there continues to be a mild association between legal cannabis retail and increased property values.

WHAT MIGHT BE DRIVING THESE RESULTS?

Cannabis as a Symbol of Innovation

Cannabis retail licensing is but one facet of innovation in America’s most dynamic cities. San Francisco, Seattle, Boston, Denver, Boulder, Portland, Los Angeles, and other cannabis retail hotbeds are synonymous with broader innovations in technology, finance, services, and other sectors driving regional economic growth.

Job Creation Spurs Growth

Cannabis business licensing spurs economic growth in the form of job creation, retail sales, higher rents, and sales taxes. Leafly’s recent Cannabis Jobs Count report found that as of early 2019, more than 211,000 full-time jobs nationwide depended on legal cannabis. That’s a 44% increase over the previous year, and it marks the legal cannabis industry as America’s fastest-growing industry (Leafly, 2019). The strongest studies suggest that higher property values near cannabis retailers may occur because of “a surge in housing demand spurred by marijuana-related employment growth, lower crime rates, and additional amenities [located] in close proximity to retail conversions” (Conklin, Diop, Li, 2017).

Cannabis as an Attractive Amenity

The hedonic price theory (Leonard, 2017) suggests a dispensary can increase property values because it can be an attractive amenity, alongside coffee shops and bars. More than 66% of Americans support legalization (Gallup, 2018) and 90% support the legal medical use of cannabis.

DEBUNKING DISPENSARY MYTHS: PART IV

Voices of Experience

Regulators and local leaders who have allowed legal dispensaries have realized gains in public health, tax revenue, economic vitality, and community safety. Here are a few of their voices:

Pamela Goynes-Brown, mayor pro tem and councilmember, City of North Las Vegas:

“We’re proud to be the only municipality in Southern Nevada that wasn’t sued over marijuana licensing. That happened because we took the time to create a responsible and thoughtful ordinance for all of the stakeholders involved. The legalization of marijuana in Nevada creates a great new avenue for economic development, job creation, economic diversity, and entrepreneurship. We welcome this new industry in the City of North Las Vegas and look forward to continuing to be a part of this growing trade.”

Joe Devlin, chief of cannabis policy enforcement, City of Sacramento:

“Overall, Sacramento’s pragmatic approach to managing cannabis has largely been successful. We have established a comprehensive framework to regulate each part of the industry and created a functioning marketplace that supports the transition of the cannabis industry, while also implementing enforcement strategies to reduce the illicit market.” (Quoted in the Sacramento News & Review, 2019)

Ron Kammerzell, former senior director of enforcement, Colorado Department of Revenue:

“One of the common misconceptions concerning people who operate licensed marijuana businesses is that they are nothing more than state-sponsored drug dealers. Many who are uninformed have images of Cheech and Chong or the characters from *Dude, Where’s*

My Car? in mind when they think of marijuana business owners. As a former regulator with more than 25 years of regulatory experience in various industries, I can tell you that these misconceptions couldn’t be further from reality. Marijuana business owners come from all walks of life including former bankers, scientists, botanists, farmers, information technology professionals, engineers, startup company CEOs, bakers, and pharmaceutical professionals. They are tremendous employers and socially responsible members of the communities in which they operate.”

Rebecca Kaplan, City Council president, City of Oakland:

“For over a decade, Oakland has had a successful system to tax and regulate cannabis facilities, starting with medical cannabis, and now including adult use as well. I am proud of much of the results we have achieved in Oakland. We are clearly showing that the legal and regulated industry can pay taxes and abide by the rules. As the first city in the nation to issue permits for cannabis dispensaries, we have seen no significant issues with crime related to cannabis retailers. ... The Oakland permit system proved that having responsible regulation is far more effective than prohibition, and demonstrated that permitted and regulated cannabis facilities can be a positive contribution to the wider community. This approach has become a widely-adopted model.”

DEBUNKING DISPENSARY MYTHS: PART V

Conclusion

In states that have legalized the adult use of cannabis, many residents still aren't able to enjoy legal cannabis. That's because their local county, city, or town has banned cannabis stores.

These local bans are often based on fears about crime, teen use, and property values. But research has shown that those fears simply don't reflect reality.

A thorough review of the research literature on the effects of medical cannabis dispensaries and/or adult-use stores found:

- The majority of studies show neighborhood crime rates decreasing or remaining unchanged after the opening of state-licensed cannabis stores. By contrast, when Los Angeles ordered its medical dispensaries to close, crime rates increased by as much as 24% within an 1/8th of a mile of shuttered dispensaries.

- The vast majority of national and state-level surveys indicate teen cannabis use has fallen in states that pass medical cannabis and adult-use laws. As adult-use stores opened across Washington state, for example, cannabis use among eighth graders declined from 9.8% to 7.3%. Illegal sellers do not check IDs. State-licensed stores strictly turn minors away.

- Longitudinal, highly detailed studies and Realtor surveys show that licensed dispensaries do not hurt nearby property values; rather, they can often give an extra boost to home values. In Colorado, home values went up an extra 8% within 1/10th of a mile of medical dispensaries that converted to adult-use sales.

Despite the fears of those who want to ban cannabis stores, the published research finds that legal retailers are safe, responsible neighbors.

Impact of Cannabis Legalization on Communities

Home Values



Increased 8% within 1/10th of a mile of Colorado dispensaries

Crime Rate



Stays flat or declines after store openings

Teen Use



Declined from 9.8% to 7.3% in eighth graders

Information for Policy Makers

A number of best-practice models have emerged from local counties and towns in legal states.

Among them:

- Somerville, MA, (pop. 81,000) adopted a suite of cannabis regulations that included a pioneering social equity measure. That measure stipulates that existing medical marijuana dispensaries will be granted adult-use licenses on a one-to-one basis with locally owned and/or economic empowerment licenses.

- Oregon City, OR, (pop. 32,000) initially imposed a citywide ban on all cannabis businesses in the wake of the 2014 statewide legalization vote. In 2016, local residents voted to lift the ban. City officials began licensing cannabis businesses in early 2017. Those licenses established buffer zones and limits on allowed locations and operating hours. Today there are six licensed stores serving the residents of Oregon City.

- The League of California Cities has a cannabis resource page for local officials seeking information about cannabis laws and sample ordinances and regulations. The California State Association of Counties also maintains an index of links to retail ordinances by county. Of interest are Sonoma County and the City and County of San Francisco. The City of Sacramento also publishes its retail cannabis dispensary ordinance. See also, ordinances from Emeryville and the City of Santa Rosa code (chapter 20-46).

- The City of Bainbridge Island, WA, (pop. 24,000) adopted zoning regulations that limited cannabis producers, processors, and retailers to business and industrial zones. The local regulations also included wastewater conservation and power efficiency standards. This resulted in a number of appropriately

scaled cannabis operations, including one retail store, that are now thriving.

- Nevada City, NV, (pop. 3,100) initially prohibited adult-use cannabis stores after Nevada's 2016 statewide legalization vote. In 2018, the Nevada City Council adopted a new ordinance that allowed the town's existing medical marijuana dispensary to also serve all adults 21 and older.

- The League of Oregon Cities has created a 60-page guide to local government regulation of marijuana. It's specific to Oregon but contains a number of model local ordinances that can be adapted to municipalities in other states.





Appendix

Research Studies Ratings, Key Literature, Extended
Bibliography, Study Limitations

DEBUNKING DISPENSARY MYTHS: APPENDIX I

Research Studies Rated

GREEN = STUDY FOUND POSITIVE DISPENSARY EFFECTS; YELLOW = NEUTRAL; RED = NEGATIVE EFFECTS

CRIME

TOPIC	AUTHORS	DATE	WHERE PUBLISHED	STUDY STRENGTH (1-4)
Exploring the Effects of Marijuana Dispensary Laws on Crime in California Counties	Priscillia E Hunt, et al.	2018	Institute for Labor Economics	4
The Effect of Marijuana Legalization on Neighborhood Crime	Jeffrey Brinkman, David Mok	2017	Federal Reserve Bank	4
The geography of crime and violence surrounding tobacco shops, medical marijuana dispensaries, etc.	Andrew M. Subica, et al.	2018	Preventive Medicine	4
The impact of dispensary closures on crime	Tom Y. Chang, Mireille Jacobson	2017	Journal of Urban Economics	3
Improving the Measurement of Drug- Related Crime	Rosalie Liccardo Pacula, et al., RAND Drug Policy Research Center. M. Fe Caces, ONDCP	2013	WhiteHouse.gov	4
The effects of medical marijuana laws on crime	Yu-Wei Luke Chu, Wilbur Townsend	2018	Journal of Economic Behavior & Organization	4
Medical Marijuana & Crime: Further Evidence From the Western States	Edward M. Shepard, Paul R. Blackley	2016	Journal of Drug Issues	3

Exploring the Ecological Association Between Crime and Medical Marijuana Dispensaries	Nancy Kepple, Bridget Friesthler	2012	Journal of Studies on Alcohol and Drugs	4
A Block-Level Analysis of Medical Marijuana Dispensaries and Crime in the City of Los Angeles	Chrisopher Contreras	2016	Justice Quarterly	4
Crime and the legalization Journal of Economic Behavior & of recreational marijuana	Davide Dragone, et al.	2019	Journal of Economic Behavior & Organization	2
Exploring the spatial association between medical marijuana dispensaries and crime	William J. Zakrzewski Jr., et al.	2019	Journal of Crime and Justice	2
Is Legal Pot Crippling Mexican Drug Trafficking Organisations? The Effect of Medical Marijuana Laws	Evelina Gavrilova, et al.	2017	The Economic Journal	1
The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006	Robert G. Morris, et al.	2014	PLOS One	1
Marijuana Dispensaries and Neighborhood Crime and Disorder in Denver, Colorado	Lorine A. Hughes, et al.	2018	Juatice Quarterly	4
Analysis of medical marijuana dispensaries and crime in long beach California	Bridget Freisthler, et al.	2016	Addiction	2
Marijuana Outlets and Crime in an Era of Changing Marijuana Legislation	Bridget Freisthler, et al.	2017	The Journal of Primary	3

TEEN USE

The availability of medical marijuana dispensary and adolescent marijuana use	Yuyan Shi	2016	Preventative Medicine	4
California Healthy Kids Survey - Results of the Sixteenth Biennial Statewide	Gregory Austin, et al.	2018	California Dept of Education	4
Prevalence of Cannabis Use in Youths After Legalization in Washington State	Julia A. Dilley, et al.	2018	JAMA Pediatrics	4
Youth marijuana use, attitudes and related behaviors in Oregon	Oregon Health Authority	2019	Oregon Health Authority	4
The Impact of State Medical Marijuana Legislation on Adolescent Marijuana Use	Esther K. Choo, et al.	2014	Journal of Adolescent Health	4
Medical marijuana laws and adolescent marijuana use in the USA from 1991 to 2014	Deborah S. Hasin, et al.	2015	The Lancet Psychiatry	4
Effects of state medical marijuana laws on adolescent marijuana use	Sarah D. Lynne-Landsman, et al.	2013	American Journal of Public Health	4
Medical Marijuana and Marijuana Legalization	Rosalie Liccardo Pacula, Rosanna Smart	2017	Annual Review of Clinical Psychology	4
Marijuana Legalization in Colorado: Early Findings	Colorado DPH	2016	Colorado DPH	3
Medical Marijuana Laws and Teen Marijuana Use	Mark D. Anderson, et al.	2014	National Bureau of Economic Research	2
High times: The effect of medical marijuana laws on student time use	Yu-Wei Luke Chu, Seth Gershenson	2018	Economics of Education Review	3
Declining Prevalence of Marijuana Use Disorders Among Adolescents in the United States, 2002 to 2013	Richard Grucza, et al.	2016	J. of the American Academy of Child & Adolescent Psychiatry	4

2017 Drug Use Trends in King County, Washington	Caleb Banta- Green, et al.	2018	University of Washington	4
Rocky Mountain High Intensity Drug Trafficking Area - Reports	RM HIDTA	annual	self	0
Employment and Marijuana Use Among Washington State Adolescents Before and After Legalization of Retail Marijuana	Janessa M. Graves, et al	2018?	Journal of Adolescent Health	4
Legalization of Recreational Marijuana and Community Sales Policy in Oregon: Impact on Adolescent Willingness and Intent to Use, Parent Use, and Adolescent Use	Julie C. Rusby, et al.	2018	Psychology of Addictive Behaviors	2
How Medical Marijuana Market Growth Impacts Adult and Adolescent Substance- Related Outcomes	Rosanna Smart	2015	no journal	1
Prevalence of marijuana and other substance use before and after Washington State's change from legal medical marijuana to legal medical and nonmedical marijuana	W. Alex Mason, et al.	2016	Substance Abuse	1
The Impact of Marijuana Legalization on Adolescent Use, Consequences, and Perceived Risk	Ashley C. Estoup, et al.	2016	Substance Use & Misuse	1
Association of state recreational marijuana laws with adolescent marijuana use	Magdalena Cerdá, et al.	2017	JAMA Pediatrics	4

PROPERTY VALUES

Do medical marijuana centers behave like locally undesirable land uses?	Lyndsay N. Boggess, et al.	2014	Urban Geography	4
The External Effects of Retail Marijuana Establishments on House Prices	James Conklin, et al.	2017	Social Science Research Network; Real Estate Economics	4
The Effect of Legalizing Retail Marijuana on Housing Values: Evidence from Colorado	Cheng Cheng, et al.	2016	Economic Inquiry	4
The Effect of Marijuana Dispensary Openings on Housing Prices	Jessie Burkhardt, Matthew Flyr	2018	Contemporary Economic Policy	4
Will Legal Marijuana Give Home Prices a New High?	Realtor.com data team	2016	Realtor.com	2
Marijuana and Real Estate: A Budding Issue		2018	National Association of Realtors	1

THE KEY LITERATURE: APPENDIX I

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THE KEY LITERATURE: APPENDIX I

Study Limitations

Heterogeneity of Time, Place, and Policies

Each city and state has different cannabis policies that have changed over time, and are often still evolving. The research space is defined by its immense heterogeneity. Thus, it's hard to generalize from most individual studies.

For example, a study of Long Beach, CA, crime rates near medical cannabis dispensaries from 2010–2014 lacks generalizability to 2019. Back then, statewide medical cannabis regulations did not exist. The City of Long Beach responded by banning all dispensaries. That situation no longer speaks to locations in 2019 that have both state and local licenses.

Most studies cited in this report involve medical cannabis dispensaries, not adult-use stores, because dispensaries have been around longer than adult-use stores and exist in many more jurisdictions. For the purposes of this review, we

don't separate findings on medical dispensaries from adult-use cannabis retail stores. Medical cannabis commerce—going into a store and paying money for cannabis products—can look nearly identical to adult-use commerce, with stores either serving both groups of customers or switching from one mode to the next as state law changes. In general, early medical dispensaries operated with far fewer regulations and licensing requirements than current shops.

States differ in the robustness of their medical or adult-use markets over time. The medical and adult-use markets can be different. For example, medical eligibility often begins at 18 in California, while adult-use access is set at age 21. In Washington, DC, where medical dispensaries operate legally, adult-use storefronts are banned entirely; only personal cultivation and gifting are allowed.



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Societal Impacts of Cannabis Dispensaries/Retailers



Retail cannabis facilities are not positively associated with increased criminality

“This paper studies the effects of marijuana legalization on neighborhood crime and documents the patterns in retail dispensary locations over time using detailed micro-level data from Denver, Colorado. ... The results imply that an additional dispensary in a neighborhood leads to a reduction of 17 crimes per month per 10,000 residents, which corresponds to roughly a 19 percent decline relative to the average crime rate over the sample period. ... Overall, our results suggest that dispensaries cause an overall reduction in crime in neighborhoods, with no evidence of spillovers to surrounding neighborhoods. ... Our results are consistent with theories that predict that marijuana legalization will displace illicit criminal organizations and decrease crime through changes in security behaviors or substitution toward more harmful substances. ... Lastly, there is no evidence that increased marijuana use itself results in additional crime.”

Not in my backyard? Not so fast. The effect of marijuana legalization on neighborhood crime, *Regional Science and Urban Economics*, 2019

“The objective of this study is to investigate whether a particular element of MMLs, namely allowance for dispensaries, affects local crime and other indicators of marijuana misuse. We find no evidence that ordinances allowing for marijuana dispensaries lead to an increase in crime. In fact, we see some evidence of a reduction in property crime. ... Our study appears to reinforce the conclusions from other studies that fail to find an increase in the type of crime predicted by law enforcement. We find no effects on burglary, robberies, or assaults, which are the types of crimes one would expect if dispensaries were prime targets as a result of their holding large amounts of cash. ... Our findings indicate that policymakers should be careful in how they regulate the presence of dispensaries, while not jumping to the conclusion that dispensaries are clearly crime generating hot-spots. ... Our findings suggest that it is possible to regulate these

markets and find a common ground between safety and access to medical marijuana.”

[High on Crime? Exploring the Effects of Marijuana Dispensary Laws on Crime in California Counties, IZA Institute of Labor Economics Discussion Paper Series, May 2018](#)

ADDITIONAL REFERENCES

By contrast, dispensary closures are associated with increases in crime

“The results presented above show that temporary dispensary closures increase crime in the short-run. ... Analyzing medical marijuana dispensary closures in the City of Los Angeles, we find no support for the idea that closing dispensaries reduces crime. Rather, temporary closures deter some types of Part I crime. ... Our findings have direct policy implications for regulating marijuana sales in the U.S. They imply that dispensary closures, and potentially the closure of other types of retail establishments, exert a significant negative externality in terms of neighborhood criminality. A quick back of the envelope cost calculation using the change in larceny theft at 1/3 of a mile and crime costs ... suggests that an open dispensary provides over \$30,000 per year in social benefit in terms of larcenies prevented.”

[Going to pot: The impact of dispensary closures on crime. Journal of Urban Economics, 2017](#)

Retail cannabis facilities are associated with rising housing values

“To learn how marijuana legalization may impact real estate, we used publicly available data from Zillow and the U.S. Census, among other sources, to explore the relationships between home values, marijuana legalization, dispensaries, and tax revenue. We used multiple regression analyses to model current trends and predict future patterns. ... Between April 2017 and April 2021, property values rose \$17,113 more in states where recreational marijuana is legal, compared to states where marijuana is illegal or limited to medicinal use. ... We found that cities with more dispensaries are positively correlated with higher home values, suggesting legalization boosts jobs and economic growth. ... With each new dispensary a city adds, property values increase by \$519. ... As more states legalize marijuana, there is strong evidence that legalization drives higher property values — particularly in areas that allow recreational marijuana and welcome retail dispensaries. ... These investments can improve quality of life in communities across the nation while attracting tourism and new residents who drive real estate demand.”

[Clever Real Estate: Data Science, “2021 Study: How Legalizing Recreational Marijuana Impacts Homes Values,” July 12, 2021](#)

“We evaluate the effect of medical and recreational dispensary openings on housing prices in Denver, Colorado. Using an event study approach, we find that the introduction of a new dispensary within a half-mile radius of a new home increases home prices by approximately 7.7 percent on average. The effect

diminishes for homes further from new dispensaries but is consistent over time. Our results provide important and timely empirical evidence on the socioeconomic impacts of marijuana legalization.”

The effect of marijuana dispensary openings on housing prices, Contemporary Economic Policy, 2018

“In this paper we contribute to the debate on the impacts of recreational marijuana legalization on local communities by examining the effects of retail marijuana stores on nearby house prices in Denver, Colorado. ... Using a difference-in-differences model, we compare houses that are in close proximity to a retail conversion to those that are slightly farther away from a retail conversion before and after the legalization of recreational sales. We find that after the law went into effect at the end of 2013, single family residences close to a retail conversion (within 0.1 miles) increased in value by approximately 8.4% relative to houses that are located slightly farther from a conversion (between 0.1 miles and 0.25 miles) in 2014 compared to the previous year.”

Contact high: The external effects of retail marijuana establishments on house prices, Real Estate Economics, 2017

“Does legalizing retail marijuana generate more benefits than costs? This paper addresses this question by measuring the benefits and costs that are capitalized into housing values. We exploit the time-series and cross-sectional variations in the adoption of Colorado’s municipality retail marijuana laws (RMLs) and examine the effect on housing values with a difference-in-differences strategy. Our estimates show that the legalization leads to an average 6 percent increase in housing values, indicating that the capitalized benefits outweigh the costs. ... In conclusion, this paper provides convincing causal evidence that legalizing retail marijuana generates net benefits, as measured through the housing market.”

The effect of legalizing retail marijuana on housing values: Evidence from Colorado, University of Mississippi working paper series, 2016

Dispensary clientele tend to be older, value access to specific strains of cannabis, and tend to require greater quantities of cannabis to treat their therapeutic condition

“Regarding age, respondents who used dispensaries were older than those not using dispensaries, perhaps reflecting that services that these dispensaries provide, such as storefront access and personalized service, may be particularly appealing to older adults. ... A larger proportion of dispensary clients considered access to their preferred strain to be important than those not using dispensaries. ... With regard to cannabis use, dispensary users were more likely to use larger amounts of cannabis. ... [D]ispensaries were widely used and well rated by respondents. Given this high level of endorsement by patients, future regulations should consider including storefront dispensaries as an authorized source of cannabis for therapeutic purposes.”

Are dispensaries indispensable? Patient experiences and access to cannabis from medical cannabis dispensaries in Canada. International Journal on Drug Policy, 2017

The prevalence of cannabis dispensaries is not positively associated with increased teen use

“This is the first study to simultaneously examine the density of both MCDs [medical cannabis dispensaries] and RCRs [recreational cannabis retailers] around young adults’ homes and associations with future intentions to use cannabis, including the co-use of cannabis with tobacco/nicotine. Our results suggest that young adults who lived in an area with a greater density of any type of outlet were not significantly more likely to report stronger intentions to use cannabis, e-cigarettes, or cannabis mixed with tobacco/nicotine in the future.”

Journal of Cannabis Research, Density of medical and recreational cannabis outlets: racial/ethnic differences in the association with young adult intentions to use cannabis, e-cigarettes, and cannabis mixed with tobacco/nicotine, 2021

“This natural-experimental study used state Youth Risk Behavior Survey (YRBS) data collected from participants in grades 9-12 from 1991 to 2015 in 46 states (N = 1,091,723). Taking advantage of heterogeneity across states in MML [medical marijuana law] status and MML dispensary design, difference-in-difference estimates compared states with enacted MMLs/dispensaries to non-MML/dispensaries states. ... This study found no evidence between 1991 and 2015 of increases in adolescents reporting past 30-day marijuana use or heavy marijuana use associated with state MML enactment or operational MML dispensaries.”

Medical marijuana laws (MMLs) and dispensary provisions not associated with higher odds of adolescent marijuana or heavy marijuana use: A 46 State Analysis, 1991-2015, Substance Abuse, 2021

“This study sought to answer the question ‘does permitting recreational cannabis dispensaries in a community effect high school students’ cannabis use, their perceptions of the accessibility of cannabis, and their perceptions of the harmfulness and wrongfulness of using cannabis?’ A cross-sectional survey of high school students was administered in 2013, before recreational cannabis dispensaries were permitted, and the survey was administered in 2015. ... The 2013 and 2015 data on student cannabis use and perceptions toward cannabis was analyzed to compare high school student use and perceptions in communities in southcentral Colorado that had permitted recreational cannabis dispensaries with high school students in those communities that had not permitted dispensaries. ... Based on the 2013 and 2015 Healthy Kids Colorado Survey data, permitting recreational cannabis dispensaries in a community does not appear to change student cannabis use or perceptions towards cannabis.”

High school student cannabis use and perceptions towards cannabis in southern Colorado — Comparing communities that permit recreational dispensaries and communities that do not, Journal of Cannabis Research, 2019

“The distance from school to the nearest medical marijuana dispensary was not associated with adolescents’ use of marijuana in the past month or susceptibility to use marijuana in the future, nor was the weighted count of medical marijuana dispensaries within the 3-mile band of school. Neither the product price nor the product variety in the dispensary nearest to school was associated with marijuana use or susceptibility to use. The results were robust to different specifications of medical marijuana measures.”

ADDITIONAL REFERENCES

Cannabis retailers are not selling to minors and their products are not being diverted to the underage market

"California laws further require ID check before any purchase, and overall compliance with this rule was high at 678 RCDs [recreational cannabis dispensaries] (96.8%)."

Assessment of recreational cannabis dispensaries' compliance with underage access and marketing restrictions in California, *JAMA Pediatrics*, 2021

"[P]seudo-underage patrons were sent to 50 randomly selected licensed recreational marijuana outlets in the state to see if they could enter the outlet without showing a valid identification with their age. At 100 percent of the recreational marijuana outlets visited, the pseudo-underage patrons were required to show age identification to enter. It appears that California recreational marijuana outlets avoid selling to underage customers."

An examination of the legal marijuana use age and its enforcement in California, a state where recreational marijuana is legal, *Insurance Institute for Highway Safety*, 2021

"On December 19, 2017 OLCC [the Oregon Liquor Control Commission] marijuana inspectors visited 20 marijuana retailers in central Oregon, and all of the 20 businesses visited in Bend and La Pine passed a check for prohibiting sales to a minor volunteer. 'That our licensed retailers in central Oregon scored 100 percent on refusal to sell marijuana to a minor is a sign that this segment of our regulated industry understands the importance of compliance,' said Steve Marks, Executive Director of the OLCC."

"OLCC Launches Marijuana Retailer Minor Decoy Checks," *Oregon Liquor and Control Board press release*, December 20, 2017

Among state-licensed Colorado retailers, "Compliance with laws restricting marijuana sales to individuals age 21 years or older with a valid ID was extremely high and possibly higher than compliance with restrictions on alcohol sales. ...

"The retail market at present may not be a direct source of marijuana for underage individuals."

Pseudo-Underage Assessment of Compliance With Identification Regulations at Retail Marijuana Outlets in Colorado, *Journal of Studies on Alcohol and Drugs*, 2016

Retail cannabis access is associated with reduced opioid consumption by the general public

"We studied county level associations between cannabis storefront dispensaries and opioid related mortality rates in the US between 2014 and 2018. Our study found that increased medical and recreational storefront dispensary counts are associated with reduced opioid related mortality rates during the study period. These associations appear particularly strong for deaths related to synthetic

opioids such as fentanyl. Given the alarming rise in the fentanyl based market in the US, and the increase in deaths involving fentanyl and its analogs in recent years, the question of how legal cannabis availability relates to opioid related deaths is particularly pressing. Overall, our study contributes to understanding the supply side of related drug markets and how it shapes opioid use and misuse."

Association between county level cannabis dispensary counts and opioid related mortality rates in the United States: panel data study, BMJ, 2021

"In this research, we have examined the effect of MML laws and the presence of active legal dispensaries on CDC age-adjusted opioid overdose death rates over the years 1999-2015. Our results suggest that states with active legal dispensaries see a drop in opioid death rates over time. ... Overall, this research provides evidence that states with MMLs may see a decline in opioid overdose death rates if they enact legal dispensaries."

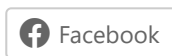
Medical marijuana laws and their effect on opioid-related mortality, Economics Bulletin, 2019

"[S]tates providing legal access to marijuana through dispensaries reduce deaths due to opioid overdoses. ... We provide complementary evidence that dispensary provisions lower treatment admissions for addiction to pain medications. ... In short, our findings that legally protected and operating medical marijuana dispensaries reduce opioid-related harms suggests that some individuals may be substituting towards marijuana, reducing the quantity of opioids they consume or forgoing initiation of opiates altogether. ... At a minimum, however, our results suggest a potential overlooked positive effect of medical marijuana laws that support meaningful retail sales."

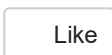
Do medical marijuana laws reduce addictions and deaths related to pain killers? Journal of Health Economics, 2018

ADDITIONAL REFERENCES

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Chart of the Week: IRS Audit Rate for Existing Marijuana Businesses

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By Becky Olson

More than 6% of operational cannabis companies surveyed by *Marijuana Business Daily* said they have been audited by the Internal Revenue Service, which suggests that the industry faces more scrutiny on the tax front than other sectors.

Testing labs reported the highest rate, with roughly 13% saying they have been audited, followed by dispensaries/recreational cannabis stores (nearly 8%) and ancillary companies (6%).

Wholesale growers reported the lowest rate, with just 2.9% of those who responded to the survey saying they have been audited.

The IRS reports that it audited about 1.4% of all U.S. businesses in 2014, which is actually down from previous years due to budget constraints.

The majority of operational cannabis businesses started in the past few years, according to the 2015 Marijuana Business Factbook. So it's reasonable to assume many marijuana companies that reported being audited were likely targeted by the IRS last year.

The online survey – conducted June 3-10 – targeted *Marijuana Business Daily's* readers and newsletter subscribers. The results include the responses of 480 executives from operational businesses, including cannabis-focused investment firms.

The likelihood of a business being audited varies significantly depending on corporate structure, gross income, nature of the business and other factors. For example, in 2014, the IRS audited over 84% of large corporations, which are defined as those with at least \$20 million in assets. Just 1% of small businesses (less than \$250,000 in assets) were audited.

On the whole for most businesses, the chances of being audited are about 1%-3%.

Although marijuana companies are more likely to be audited by the IRS, they appear to be less likely to have to make changes to those tax returns than other businesses. Over half of marijuana businesses reported not having to change their tax returns as the result of an audit, whereas only about one-sixth of other businesses didn't end up changing their tax returns.

Taxes are one of the biggest challenges the marijuana industry faces. An obscure section of the tax code known as 280E often results in effective tax rates in excess of 70% – and even over 100% – of gross taxable income for dispensaries and recreational cannabis stores.

Marijuana retailers therefore often have a much higher tax burden than other sectors of the industry, and it can be tempting for them to look for creative ways to lower their tax bills, according to tax experts. That invites more scrutiny from the IRS.

The 8% audit rate for cannabis retailers is on par with the percentage for the largest corporations in the country that have assets in excess of \$100 million. The lion's share of marijuana companies are much smaller, yet the audit rates are more on par with those for the country's largest firms.

However, the fact that marijuana businesses subject to an audit are much less likely than other businesses to have to make changes to their tax returns would seem to suggest not only are these businesses not giving into the temptation to ignore 280E, but their overall financial records and taxes are pretty buttoned-up.

This is possibly a positive early indicator that the marijuana industry is taking compliance seriously.

Becky Olson can be reached at beckyo@mjbizmedia.com

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LATEST NEWS

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Cynthia Stoechner-Hernandez

From: Jimmy Nevarez <jnevarez575@gmail.com>
Sent: Sunday, October 31, 2021 3:42 PM
To: mayor@mesillanm.gov
Cc: cynthias-h@mesillanm.gov; yolandaglucero@gmail.com; lucasa@mesillanm.gov; stephaniejb@mesillanm.gov; jescusc@mesillanm.gov; veronicag@mesillanm.gov; mesillaj3@aol.com; dannyjjonesnm@gmail.com; ej.walkinshaw65@gmail.com
Subject: Ordinance 2021-02 establishing zoning and other regulations for cannabis
Attachments: Nm state amend canna fees.pdf; Untitled attachment 02945.txt; 16.8.2-Emergency-Amendment-Manufacturing-Rules.pdf; Untitled attachment 02948.txt; Mesilla cannabis proposal to board.pdf; Untitled attachment 02951.txt

Mayor,

As we have discussed, my family is preparing to open multiple retail cannabis facilities. These locations will include a retail store and Class 1 and 2 manufacturing bakery for infused cannabis products. The facility will be called Kushology 101. One location will be in the Town of Mesilla. We will also have an offsite growing facility.

I am not a cannabis user but after deciding to enter the business, I have spent the last 6 months researching the medical and recreational use of cannabis so that I have a complete understanding of rules, regulations, requirements and business practices of the cannabis industry. I have also immersed myself into the legal implications of the business at the Federal, State, and Local level. I have hired an expert consultant to represent our business.

Below are suggested revisions to the Mesilla ordinance 2021-02 establishing zoning and other regulations for cannabis. The revisions have a final page with the reasoning for the proposed changes. These changes are primarily based on two facts. New Mexico has amended HB2 several times through the NM Cannabis Control Division and require these changes to be consistent with state statute. I have attached emergency amendment 16.8.2 NMAC to help as a guide. I have also attached additional information from the NM Cannabis Control Division to clarify the types of cannabis licensing the State of New Mexico will recognize. Secondly, the proposed revisions are for the safety and well being of the cannabis businesses, it's employees, the Town of Mesilla, and it's residents.

The requirements listed by Mesilla for hours of operation, required set backs from schools and other cannabis locations are consistent with the safe operation of a licensed cannabis location. The primary concern of the Town, cannabis industry, and local residents is safety. I will not waste your time attaching a link to a story of armed robbery's in retail cannabis locations. You can google armed robbery's and cannabis and easily see the present threat. The town is not discriminating the cannabis industry by instituting these requirements in the proposed ordinance. The cannabis industry has 2 major problems that require stringent regulation. The first and foremost is that cannabis is federally illegal. The second is that the business is nearly 100% cash based and poses a severe threat for armed robbery.

It is important to limit the number of locations in Mesilla for several reasons. Cash present in the locations while awaiting courier service, which is 3-5 times per week poses a real threat to employees, residents, and the town. A courier service must be used since cannabis sales are federally illegal and we are forced us to use the nearest cannabis-friendly and licensed bank, which is in Albuquerque. The fact that cannabis is federally illegal also imposes severe tax implications for a business owner. We will be investing hundreds of thousands dollars to open a retail location. The cost for licensing and business structure will cost more then \$30,000 alone. This is not an industry anyone should enter without knowing the potential costs, risks and education required to run a safe and regulated location. A cannabis business can not generate enough sales to cover it's expenses with numerous locations. In a town the size of Mesilla, only 1-3 retail locations can generate enough revenue to sustain those businesses. States such as Oregon saw more then 25% of its retail locations close due to several reasons, one being market saturation.

I have hired Pat Davis who was appointed to chair the board to legalize cannabis in New Mexico under former Governor Martinez and Governor Lujan Grisham, a member of the Albuquerque City Council, and is also a former law enforcement officer. Pat was assigned to research cannabis sales in any state where it was legal as well as formulate and adopt the New Mexico Cannabis regulations. I heavily rely on Pat when I need to verify my information. There is no other person in New Mexico with his knowledge and integrity in the Cannabis industry.

As a business owner in the heavily regulated firework industry, I believe there is no one else who would ensure the cannabis business is run to the highest of standards and guarantee no corners are cut. The safety of the Town of Mesilla and our employees are first and foremost. I am available anytime for questions and would love the opportunity to be more involved in the formulation of cannabis regulations in the Town of Mesilla. I ask you please take my revisions into consideration.

Thank you,
Jimmy Nevarez

This is an emergency amendment to 16.8.2 NMAC amending and renumbering Section 29 to Section 35 and adding new Sections 30 through 34, effective 9/8/2021.

16.8.2.29 CANNABIS MANUFACTURER LICENSURE; GENERAL PROVISIONS:

- A. License Types:** The division may license four classes of manufacture:
- (1) Class I: A licensee that only packages or repackages cannabis products, or labels or relabels the cannabis product container;
 - (2) 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;
 - (3) Class III: A licensee that conducts Class I and Class II activities, and extracts using mechanical methods or nonvolatile solvents; and
 - (4) Class IV: A licensee that conducts Class I, Class II, and Class III activities, and extracts using volatile solvents or supercritical CO₂.
- B. Division application forms:** All applications for licensure authorized pursuant to the Cannabis Regulation Act shall be made upon current forms prescribed by the division using the online application portal.
- C. License required:** Unless licensed pursuant to the Cannabis Regulation Act and division rules, a person shall not manufacture cannabis extract, unless for personal use pursuant to Section 26-2C-31, NMSA.
- D. Other activities prohibited:** Except as provided in subsection BB of 16.8.2.8 NMAC, no cannabis manufacturer establishment licensee may produce cannabis, courier cannabis or cannabis products, or engage in the retail sale of cannabis or cannabis products unless the licensee has properly applied for, and the division has approved, the applicable license type required for those activities.
- E. Prohibited additives:** A manufacturer shall not manufacture or distribute a product that is intended to be consumed by inhalation that includes polyethylene glycol, polypropylene glycol, vitamin E acetate, or medium chain triglycerides. A manufacturer shall not combine nicotine, caffeine, or any other addictive substance with a cannabis product. This prohibition shall not apply to the combination of cannabis with sugar, or a product in which caffeine is naturally occurring, such as coffee, tea, or chocolate.
- [16.8.2.29 NMAC – N/E, 09/08/2021]

16.8.2.30 APPLICATION REQUIREMENTS FOR CANNABIS MANUFACTURER LICENSE:

- A.** An initial application or renewal for cannabis manufacturer licensure shall include the following:
- (1) Contact information for the applicant and the cannabis establishment, to include:
 - (a) applicant’s full legal name;
 - (b) applicant’s mailing address;
 - (c) applicant’s contact telephone number;
 - (d) applicant’s contact email address;
 - (e) applicant’s business physical address and mailing address, if different;
 - (f) applicant’s business legal name, including a DBA name if applicable;
 - (g) applicant’s business web address, if applicable;
 - (h) applicant’s business hours of operation;
 - (i) name and contact information for each controlling person;
 - (j) demographic data pursuant to the Cannabis Regulation Act; and
 - (k) license type sought (Class I, Class II, Class III, or Class IV);
 - (2) proof the applicant or each controlling person is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and picture of the applicant or controlling person;
 - (3) legible and accurate diagram containing information required by subsection 16.8.2.32 NMAC and description of the location of the land or facility to be used for the cannabis establishment and the method(s) to be used to manufacture cannabis (extraction, infusion, packaging, labeling), including a description of extraction and infusion methods, in a portable document format (.pdf), and if requested by the division, digital photographic photos;
 - (4) fully executed and dated documentation of the applicant’s ownership or legal authority to use the property, buildings, or other facilities, establishing the applicant is, or will be, entitled to possession of the premises for which the application is made;
 - (5) demonstration of a legal right to use the quantity of water that the division determines is

needed for cannabis manufacturing, as evidenced by either:

(a) documentation from a water provider that the applicant has the right to use water from the provider and that the use of water for cannabis manufacturing is compliant with provider's rules, or

(b) documentation from the office of the state engineer showing that the applicant has a valid and existing water right, or a permit to develop a water right, at the proposed place of use of the cannabis establishment. The documentation may include any of the following:

(i) a state engineer permit or license in good standing, but not including a permit issued pursuant to Sections 72-12-1, -1.1, -1.2, or -1.3, NMSA 1978;

(ii) a subfile order or decree issued by a water rights adjudication court;

(iii) the findings of an office of the state engineer hydrographic survey; or

(iv) other documentation the office of the state engineer has deemed in

writing as acceptable to the office of the state engineer under this rule.

(6) a copy of a current business license, fire inspection report, and zoning approval;

(7) if applicable, certification the applicant is in good standing with the New Mexico secretary of state, including all documents filed with the New Mexico secretary of state;

(8) a list of all controlling persons, a list of other current or prior licensed cannabis businesses, documentation of the applicant's or a controlling person legal name change, and criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;

(9) a detailed description of any criminal convictions of the applicant and any controlling person, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;

(10) a list of the types of products that will be manufactured, packaged, or labeled;

(11) a complete written description of good manufacturing practices (GMPs).

(12) a complete written description of the means that the manufacturer shall employ to safely manufacture cannabis products, including hygiene standards consistent with the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, division rules, and other state or federal rules applicable to manufacturing;

(13) A detailed description of the licensee's proposed plan for obtaining cannabis from a licensed cannabis producer or cannabis microproducer.

(14) legible electronic images of the labeling and packaging of the cannabis or cannabis products that the manufacturer shall utilize, which satisfies the labeling and packaging requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, division rules, and other state or federal rules applicable to labeling and packaging;

(15) if applicable, proof of prior approval by the New Mexico regulation and licensing department for the use of any compressed gas extraction equipment to be utilized by the manufacturer;

(16) if applicable, a sample of the record form(s), which shall identify (among other items) the name of the wholesale purchaser, the date of the sale, the quantity, and price of cannabis sold;

(17) certification the applicant will adhere to manufacturing requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(18) certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(19) certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(20) certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules;

(21) certification the applicant will adhere to applicable federal, state and local laws governing the protection of public health and the environment, including occupational health and safety, food safety, fire safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;

(22) certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application;

(23) certification the applicant is not licensed under the Liquor Control Act.

(24) applicant’s social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities;

(25) an attestation that the manufacturer will not use dimethylsulfoxide (DMSO) in the production of cannabis products, and will not possess DMSO on the premises of the manufacturer;

(26) an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and

(27) for a class IV license, a signed attestation from a licensed engineer stating the chemical extraction equipment is a closed loop system, is being utilized for its intended use and meets requirements of subsection I of 16.8.2.34 NMAC;

(28) for class II, III, and IV licenses, evidence that the applicant has obtain all necessary permits required for the production of edibles and topicals from the New Mexico environment department and that such permits are valid at the time the license application is submitted; and

(29) payment of any required fees as set forth in 16.8.11 NMAC.

B. Verification of information: The division may verify information contained in each application and accompanying documentation by:

- (1) contacting the applicant or controlling person by telephone, mail, or electronic mail;
- (2) conducting an on-site visit;
- (3) requiring a face-to-face or virtual meeting and the production of additional

documentation; or

- (4) consulting with state or local governments.

C. Trade secrets: Any applicant submitting operating procedures and protocols to the division pursuant to the Lynn and Erin Compassionate Use Act, the Cannabis Regulation Act, or division rules, may claim such information as a trade secret or confidential by clearly identifying such information as “confidential” on the document at the time of submission. Any claim of confidentiality by an applicant must be based on the applicant’s good faith belief that the information marked as confidential constitutes a trade secret as defined in the Uniform Trade Secrets Act, Sections 57-3A-1 to -7, NMSA 1978. In the event the division receives a request to inspect such documents, the division will notify the applicant or licensee, via the current email of record. If the division does not receive an injunction pursuant to the Uniform Trade Secrets Act within five days of the request to inspect, the division will make the documents marked confidential available for inspection as required pursuant to the Inspection of Public Records Act.

[16.8.2.30 NMAC – N/E, 09/08/2021]

16.8.2.31 SUBMITTAL OF APPLICATION FOR AMENDED CANNABIS MANUFACTURER LICENSE:

A. Application: A licensed manufacturer shall submit to the division an application form for an amended license, if applicable, pay the required fee, and obtain approval from the division, prior to implementing any of the following:

- (1) material or substantial change of the size or location of the premises;
- (2) change of licensee’s legal or business name;
- (3) change or modification in extraction type(s) or equipment;
- (4) material or substantial change in water source;
- (5) addition of a controlling person;
- (6) material or substantial change to a license’s security system;
- (7) material or substantial modification of the premises; or
- (8) engaging in an activity which requires an addition or change of a license type.

B. Amended license not required: Changes to standard operating policies and procedures may be made without providing notification to the division, provided that licensees shall maintain at each licensed premises a copy of all current and prior operating policies and procedures.

C. Requirements and processing of application for amended license: The application for amended license must comply with all requirements applicable to initial applications, except that the application shall be clearly designated as one for an amended license. The division shall prorate required fees to align with the expiration

date of the licensee's original license, which shall be the expiration date of the licensee's amended license, if approved. The division shall approve or deny an application for amended license within 90 days of receiving a completed application. Denial of an application for amendment shall be pursuant to the Uniform Licensing Act.

D. Material or substantial change: Material or substantial changes requiring approval include:

- (1) increase or decrease in the size of the premises, including the sale of property used for the cannabis establishment, the purchase of additional property for the use of the cannabis establishment, or a change in the location of the cannabis establishment;
- (2) a modification in the licensee's access to the water source submitted with an application for initial or renewal licensure or a 10 percent, or more, increase in the licensee's water usage;
- (3) change to a licensee's security system, including relocation or security points or installation of a new security system; or
- (4) modification of the premises to relocate cannabis activities.

[16.8.2.31 NMAC – N/E, 09/08/2021]

16.8.2.32 PREMISES DIAGRAM:

A. An applicant must submit to the division, with the application, a complete and detailed diagram of the proposed premises. The diagram shall be used by the division to determine whether the premises meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules. The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state or local laws.

B. The diagram shall show the boundaries of the property and the proposed premises to be licensed, the dimensions of each area that cannabis will be manufactured. The diagram shall also include, as applicable, any equipment to be used, entrances and exits, interior partitions, walls, rooms, windows, and doorways. The diagram shall include a brief statement or description of the principal activity to be conducted in each area on the premises.

C. The diagram shall show where all cameras are located and assign a number to each camera for identification purposes.

D. The diagram shall be to scale.

E. The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.

F. If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.

G. If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.

H. If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.

[16.8.2.32 NMAC – N/E, 09/08/2021]

16.8.2.33 CANNABIS MANUFACTURER POLICIES AND PROCEDURES:

A. Minimum policy and procedure requirements: A manufacturer shall develop, implement, and maintain on the licensed premises, standard policies and procedures, which shall include the following:

(1) cannabis testing criteria and procedures, which shall be consistent with the testing requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, and shall include at a minimum, the following topics:

(a) representative sampling and analytical testing of cannabis or cannabis products for contaminants prior to wholesale or transfer to another cannabis establishment;

(b) recordkeeping and chain of custody protocols for transportation of cannabis or cannabis product samples to a cannabis testing laboratory;

(c) recordkeeping and chain of custody protocols for transportation of cannabis or cannabis products to another cannabis establishment for any purpose;

(d) protocols to ensure that cannabis or cannabis products, including any samples of cannabis or cannabis products, are transported and stored in a manner that prevents degradation, contamination, tampering, or diversion;

(e) protocols for testing sample collection that ensures accurate test results;

and

(f) procedures for destruction of a tested batch of cannabis or cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards;

(2) employee policies and procedures to address the following minimum requirements:

(a) adherence to state and federal laws;
(b) responding to an emergency, including robbery or a serious accident or incident;

(c) alcohol and drug-free workplace policies and procedures;
(d) safety and security procedures;
(e) occupational health and safety;
(f) crime prevention techniques; and
(g) if applicable, confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996; and

(3) documentation prepared for each employee and statements signed by employees indicating receipt and understanding of policies and procedures.

B. Training program:

(1) Licensee shall implement a training program, approved by the division, to ensure that all personnel present at the premises are provided information and training that, at minimum, covers the following topics within 30 days of the start of employment:

(a) employee health and safety training materials;
(b) health and safety hazards;
(c) hazard communication training for all solvents or chemicals used at the licensed premises and as described in the safety data sheet for each solvent or chemical;
(d) training requirements for the proper use of health and safety measures and controls;

(e) emergency procedures;
(f) security procedures; and
(g) record keeping requirements.

(2) Prior to independently engaging in any cannabis manufacturing process, including but not limited to extraction:

(a) an overview of the process and standard operating procedure(s);
(b) quality control procedures;
(c) hazard analysis and control procedures as appropriate;
(d) proper and safe usage of equipment or machinery;
(e) safe work practices applicable to an employee's job tasks, including appropriate use of any necessary safety or sanitary equipment;
(f) cleaning and maintenance requirements;
(g) emergency operations, including shutdown; and
(h) any additional information reasonably related to an employee's job duties.

(3) A licensee, or employee, involved in the handling, transportation, manufacture, extraction, testing, or packaging of cannabis products must successfully complete a food handler course accredited by the American National Standards Institute (ANSI) prior to conducting any related activities. Such training shall be maintained while employed under a manufacturing licensee. The licensee shall obtain documentation evidencing the fulfillment of this requirement.

C. Training documentation:

(1) Licensee shall ensure that all personnel receive annual refresher training to cover, at minimum, the topics listed in this section. This annual refresher training must be completed within 12 months of the previous training completion date. The licensee shall maintain a record which contains at minimum:

(a) an annual attestation by licensee that they received and understood all information and training provided in the training program;
(b) a list of all personnel at the premises, including at minimum, name and job duties of each;
(c) documentation of training topics and dates of training completion for all

personnel;

(d) training topics and dates of refresher training completion for all

personnel;

(e) the signature of the individual personnel and the licensee verifying

receipt and understanding of each training or refresher training completed by the personnel;

(f) any official documentation attesting to the successful completion of

required training by personnel.

(2) Licensee may designate supervisory personnel with responsibility to oversee the requirements of this section. Assigned supervisory personnel must have the education, training, or experience (or a combination thereof) necessary to ensure the production of clean and safe cannabis products by all personnel. The designated training personnel shall sign and date a document on an annual basis attesting that they have received and understood all information and training provided in the training program. This documentation shall be maintained as part of the record requirements.

D. Retention of training documentation: Licensees shall maintain documentation of an employee's training for a period of five years for current employees and at least six months after the termination of an employee's employment.

[16.8.2.33 NMAC – N/E, 09/08/2021]

16.8.2.34 MINIMUM STANDARDS FOR THE MANUFACTURE OF CANNABIS PRODUCTS:

A. General requirements: Licensees shall ensure the following:

(1) manufacturing shall be done in premises that are in compliance with state and local laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act;

(2) the licensee's right to use the quantity of water sufficient to meet the manufacturing facility's needs remains in good standing;

(3) weighting or measuring devices that are used in the wholesale of cannabis be appropriately documented as having undergone certified registration and calibration that is in accordance with applicable requirements of the New Mexico department of agriculture; and

(4) licensee shall notify the division of any changes to the days or hours of business operation;

B. Permissible Extractions:

(1) Except as provided in subsection (2), cannabis extraction shall only be conducted using the following methods:

(a) Mechanical extraction, such as screens or presses;

(b) chemical extraction using a nonvolatile solvent such as a nonhydrocarbon-based or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or food-grade glycerin, (nonhydrocarbon-based solvents shall be food grade);

(c) chemical extraction using a professional closed loop CO2 gas extraction system;

(d) chemical extraction using a volatile solvent; or

(e) any other method authorized by the division pursuant to subsection (2).

(2) To request authorization from the division to conduct cannabis extraction using a method other than those specified in paragraphs (a) – (d) of subsection (a), the applicant or licensee shall submit a detailed description of the extraction method, including any documentation that validates the method and any safety procedures to be utilized to mitigate any risk to public or worker health and safety.

(3) Extraction equipment shall be used and operated in accordance with its intended manufacturer use and design.

C. Volatile Solvent Extractions: Chemical extractions using volatile solvents shall be subject to the following requirements:

(1) hydrocarbon-based solvents shall be at least 99 percent purity;

(2) ethyl alcohol must be food grade, and non-denatured in composition;

(3) all extractions shall be performed in a closed loop extraction system as described in subsection I of 16.8.2.34 NMAC; and

(4) Manufacturers shall not use ignition sources including but not limited to a heat gun or any open flame source next to extraction equipment that utilizes volatile solvents, including in rooms designated solely for extraction or in areas that contain or uses flammable liquids and gasses.

I. Closed-Loop Extraction System Requirements:

(1) Chemical extractions using CO₂ or a volatile solvent shall be conducted in a professional closed loop extraction system. The system shall be commercially manufactured and bear a permanently affixed and visible serial number. The system shall be certified by a licensed engineer that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, or listed, or approved by a nationally recognized testing laboratory.

(2) The certification document must contain the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

(3) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for use by the local fire code official and meet any required fire, safety, and building code requirements specified in:

(a) National Fire Protection Association (NFPA) standards;

(b) International Building Code (IBC);

(c) International Fire Code (IFC); or

(d) Other applicable standards including all applicable fire, safety, and building codes related to the processing, handling and storage of the applicable solvent or gas.

[16.8.2.34 NMAC – N/E, 09/08/2021]

16.8.2.35 SEVERABILITY: If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.

[16.8.2.35 NMAC – N 08/22/2021; Rn/E, 09/08/2021]

NOW THEREFORE, BE IT ORDAINED by the Governing body of the Town of Mesilla that:

SECTION 1. Purpose

This Ordinance is adopted to protect the health, safety, and welfare of the community. Except as allowed by NMCRA and its pertinent laws or regulations for personal or private use, the Town of Mesilla enacts reasonable regulations and requires compliance with the NMCRA and its pertinent laws or regulations.

SECTION 2.

1. Definitions

- a) "Adjacent grounds" means all areas that the licensee has an exclusive right to virtue of his ownership or lease, which are outside the enclosed licensed premises, but adjacent and contiguous to the licensed premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots, and similar areas and all fixed and portable things in those areas, including but not limited to lights, signs, speakers, and security devices.
- b) "Approve a business license" means to find that the requirements for a license have been met but does not give the applicant the right to operate a cannabis establishment in the Town until the license is issued. This standard applies even where the applicant has already obtained a State of New Mexico cannabis license.
- c) "Character and record" includes all aspects of a person's character and record, including but not limited to moral character, criminal record, serious traffic offenses, record of previous sanctions against liquor licenses, gambling licenses, or cannabis licenses, which the person owned, in whole or in part, or in which the person served as a principal, manager, or employee; education, training, experience, civil judgments, truthfulness, honesty, and financial responsibility.
- d) "Cannabis" 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 does not include:
 - i. 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

ii. the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink, or another product.

For the purpose of this Ordinance, the term cannabis and medical cannabis are interchangeable.

- e) "cannabis consumption area" means an area where cannabis products may be served and consumed;
- f) "Cannabis courier" means a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.
- g) "Cannabis establishment" means:
- a. A single retail location where the licensee may sell [marijuanacannabis](#) and [marijuanacannabis](#) infused products to consumers, including edibles. It includes both recreational and medical [marijuanacannabis](#).
 - b. An offsite manufacturing and production facility at which the licensee may manufacture and produce [marijuanacannabis](#) and [marijuanacannabis](#) infused products, which are not sold on location but are sold or transferred to consumers at other locations. It includes both recreational and medical [marijuanacannabis](#).
 - c. A cultivation facility at which the licensee may grow or cultivate [marijuanacannabis](#) and [marijuanacannabis](#) infused products, which are not sold on location but are sold or transferred to consumers at other locations. It includes both recreational and medical [marijuanacannabis](#).
 - d. A combined retail, production, and manufacturing location where the licensee may produce and manufacture [marijuanacannabis](#) and [marijuanacannabis](#) infused products, including edibles, and sell these products to consumers at the same location. It includes both recreational and medical [marijuanacannabis](#).
 - e. A combined retail, production, manufacturing, and cultivation/growing location, where the licensee may cultivate and grow [marijuanacannabis](#), produce and manufacture [marijuanacannabis](#), including [marijuanacannabis](#) infused products and edibles, and also sell these products to consumers at the same location. It includes both recreational and medical [marijuanacannabis](#).
- h) "Cannabis manufacturer" means a person that:

~~i. (1) manufactures cannabis products.~~ Class I: A licensee that only packages or repackages cannabis products, or labels or relabels the cannabis product container;

~~ii. (2) packages cannabis products.~~ 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;

~~iii. (3) has cannabis products tested by a cannabis testing laboratory; or~~ Class III: A licensee that conducts Class I and Class II activities, and extracts using mechanical methods or nonvolatile solvents; and

~~iv. (4) purchases, acquires, sells, or transports wholesale cannabis products to other~~

~~cannabis establishments~~ Class IV: A licensee that conducts Class I, Class II, and Class III

activities, and extracts using volatile solvents or supercritical CO₂.

- i) “Cannabis producer” means a person that:
 - i. cultivates cannabis plants.
 - ii. has unprocessed cannabis products tested by a cannabis testing laboratory.
 - iii. transports unprocessed cannabis products only to other cannabis establishments; or
 - iv. sells cannabis products wholesale.
- j) “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.
- k) “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.
- l) “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.
- m) “Cannabis retailer” means a person that sells cannabis products to qualified patients, primary caregivers, or reciprocal participants or directly to consumers.
- n) “Cannabis testing laboratory” means a person that samples, collects, and tests cannabis products and transports cannabis products for the purpose of testing.
- o) “Complaint” means a document filed with the Town seeking sanctions against a cannabis business license.
- p) “Contiguous” means located within the same building as the cannabis establishment, located in a separate building on the same parcel of land as the cannabis establishment, or located in a separate building on a separate parcel of land that is adjacent to and shares at least fifty percent (50%) of a common lot line with the lot on which the cannabis establishment is located.
- q) “Daycare” means a facility required to be licensed by the State of New Mexico that provides care, services, and supervision for less than 24-hours a day to children.
- r) “Employee” means the licensee’s or proposed licensee’s employees.
- s) “Harm” or “harmful to public health, safety or welfare” means any matter that adversely
- t) affects the health, safety, or welfare of any person or group of persons within the Town or any adjacent community, including but not limited to matters related to crime, lighting, security, traffic, graffiti, litter, parking, and noise. A showing of actual harm shall not be required and

a showing of potential or threatened harm shall be sufficient. Any violation of any criminal statute or ordinance is per se substantially harmful to public health, safety, and welfare, without any showing of actual or threatened harm. The mere possession, advertising, sale, cultivation, processing, smoking, or ingestion of cannabis or cannabis infused products, when performed lawfully, shall not in itself be considered harmful to public health, safety, and welfare.

- t) “Integrated cannabis microbusiness” means a person that is authorized to conduct one or more of the following:
- i. 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.
 - ii. manufacture of cannabis products at a single licensed premises.
 - iii. sales and transportation of only cannabis products produced or manufactured by that person.
 - iv. operation of only one retail establishment; and
 - v. couriering of cannabis products to qualified patients, primary caregivers, or reciprocal participants or directly to consumers.
- u) “In public” means any area that the public may generally enter, including any business open to the public. The term includes the licensed premises and the adjacent grounds if the cannabis establishment has not also obtained a consumption license from the State of New Mexico. The term includes persons in motor vehicles located in a public place. It also includes property owned or leased by the Town, State or Federal government.
- v) “Issue a business license” means to finalize the Town’s local license after a previous approval of the license and may or may not occur after approval of the license, depending on any completions, inspections, approvals, or conditions that the Town may require to be satisfied before issuance. Issuance gives the licensee the ability to operate a cannabis facility, provided that the licensee also obtains a valid State of New Mexico license.
- w) “License” under this Ordinance means a local business license issued by the Town of Mesilla for the sale, production, manufacturing, cultivation, or distribution of cannabis or cannabis infused products.
- x) “Licensee” means the person or entity holding a local Town cannabis business license under this Article.

- y) “Licensed premises” means the area inside a building in which the cultivation, manufacture, processing, infusion, possession, weighing, display, packaging, sale, and exchange of cannabis and cannabis infused products is licensed under this Ordinance.
 - z) “School” means that 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 an elementary, middle, junior high or high school or any combination of those and includes [private and/or](#) charter schools.
 - aa) “Vertically integrated cannabis establishment” means a person that is authorized to act as any of the following:
 - i. a cannabis courier.
 - ii. a cannabis manufacturer.
 - iii. a cannabis producer; and
 - iv. a cannabis retailer.
 - bb) “Operate” or “operation” means the matters described in this Ordinance, as amended.
 - cc) “Person” means any natural person and any entity.
 - dd) “Principal” means:
 - a. In the case of any entity, including any general or limited partnership, corporation, limited liability company, or other entity: any person who has a five percent (5%) or greater interest in the ownership of the entity, and any person who has the day-to-day authority to or actually does manage the entity’s finances.
 - b. In the case of a corporation: the persons described as a representative or applicant for any entity and the president, vice president, secretary, chief executive officer, chief financial officer, and any person who holds five percent (5%) or more of the capital stock of the corporation.
 - c. In the case of a limited liability company: the persons described as a representative or applicant for any entity and any member of the limited liability company.
 - d. In the case of a sole proprietorship, the individual owner.
 - ee) “Public property” means property that is occupied, owned, controlled, or operated by the Federal, State, or Town government.
- 2) **General Requirements:**
- a) It shall be unlawful to use, sell, manufacture, cultivate, produce, or distribute cannabis on public property within the Town of Mesilla.

b) Cannabis establishments shall not allow a person to consume cannabis on site, or on adjacent grounds, except as where authorized by the New Mexico Cannabis Regulation Act, as amended, including obtaining a consumption license.

c) Cannabis establishments shall provide for proper and secure disposal of all cannabis products and byproducts and shall abide by the Town's regulations regarding rubbish and discharges into the municipal wastewater system.

d) Cannabis establishments shall not emit fumes, dust, odors, or vapors into the environment or disturb adjacent uses.

~~d) e)~~ e) Cannabis establishments shall not display or keep visible from outside the licensed establishment any cannabis products or paraphernalia.

3) **Establishing Business Registration.**

The Town of Mesilla, as the local cannabis business licensing authority, shall have the following powers and authority:

a) To issue, deny, or revoke a Town cannabis business license and renewals of the same, and where necessary, to conduct public hearings related thereto.

b) To impose any sanctions on a Town cannabis business license, including revocation, upon its own authority and initiation, or in response to a complaint by any person for any violation by the licensee after investigation and a public hearing, at which the licensee shall be afforded an opportunity to be heard. Such hearings will allow for the presentation of evidence by the applicant and Town staff and will be followed by the adoption of formal findings and conclusions.

c) To adopt application forms, fees, and submission requirements for a Town cannabis business license.

d) ~~No person or corporate entity may operate a cannabis establishment within the Town without first obtaining a Town cannabis business license.~~ It is illegal to operate a cannabis establishment in the Town without first obtaining a local Town cannabis business license.

e) ~~d)~~ All licenses will be administered and approved by the Town provided that the applicant has met all conditions and requirements established herein.

~~e)a) It is illegal to operate a cannabis establishment in the Town without first obtaining a local Town cannabis business license.~~

f) Upon issuance, the Town's cannabis business license shall be displayed within the premises and be visible to public view.

g) Registration shall be renewed by June 30 annually.

3)4). General Licensing Requirements.

To obtain a Town cannabis business license under this Ordinance, the applicant must shall demonstrate the following:

- a) The proposed licensed premises and adjacent grounds meet all requirements for issuance of a State of New Mexico cannabis license and all applicable laws and regulations.
- b) The applicant shows provisional proof of a valid State of New Mexico cannabis license.
- c) The applicant has met all requirements, including payment of any applicable taxes and fees, both state and local.
- d) The applicant has obtained a separate Town business license for any other business activity that will also be operated on the licensed premises and paid all applicable license fees.
- e) The premises and adjacent grounds are not licensed or operated as an establishment for the sale or service of alcohol beverages, or as a massage parlor, a dance hall, adult business, or an amusement facility.
- f) The applicant has applied for a Town cannabis business license on the established forms, that the Community Development Coordinator or designee has determined is complete.
- g) In the case of a ~~any~~ retail cannabis establishment, the applicant has demonstrated that the proposed licensed premises is located on or within property zoned or used as Historical Commercial (HC) Zone (MTC 18.35) or General Commercial (GC) Zone (MTC 18.45). ~~A combined retail and production, manufacturing or growing establishment is not allowed in these zones.~~ Only combined retail and manufacturing classes (1) and (2) shall be allowed in these zones.
- h) In the case of a cannabis establishment that is manufacturing classes (3) and or (4), producing, or cultivating for commercial use (non-personal use), and even where combined with a retail cannabis establishment, the applicant has demonstrated that the proposed licensed premises is located on or within property zoned or used as Rural Farm (RF) Zone (MTC 18.20) or Residential/Agricultural (RA) Zone (MTC 18.25) or Single-Family Residential (R-1) Zone (MTC 18.30), or as

otherwise specified in the Town's land use and zoning regulations, including

those uses subject to a special use permit.

- i) In the case of a cannabis establishment that is manufacturing classes (3) and or (4), producing, or cultivating, and even where combined with a retail cannabis establishment, the applicant shows adequate water resources and applicable permits, as approved by the Town, or as required under the laws of the State of New Mexico.
- j) The applicant must demonstrate that the location of the proposed licensed premises is no less than five hundred (500) feet from any other licensed cannabis establishment. Measurements shall be made from any wall of the two (2) proposed or existing licensed premises. Nothing herein prohibits multiple licenses from operating from a single premise.
- k) If applying for consumption licensing, the applicant must demonstrate that the cannabis consumption area is more than 300 feet of a Residential zone district.
- l) ~~k)~~–Alcohol consumption in a cannabis consumption area is prohibited as per State Law.
- m) ~~l)~~–The applicant must demonstrate that the proposed licensed premises are not located within three hundred (300) feet of any public or private school or other daycare facility. The distances referred to in this paragraph are to be computed by direct measurement from the nearest property line of the land used for a school or campus, to the nearest portion of the lot that is the situs of the building that is proposed for a licensed premises.
- n) ~~m)~~ The applicant agrees to only sell cannabis products and receive deliveries between the hours of 8:00 a.m. and 12:00 a.m. Monday through Saturday and 12:00 p.m. to 12:00 a.m. on Sundays ~~10:00 a.m. and 9:00 p.m, Monday through Sunday.~~
- o) ~~n)~~–The applicant for a Town cannabis business License, principals, registered manager, and employees must meet all requirements under New Mexico State law
- p) ~~o)~~– The applicant, principals, registered manager, and employees must be at least twenty-one (21) years of age.
- q) The applicant, principals, registered manager, and employees all hold valid occupational licenses and registrations as required by the State of New Mexico, including all applicable cannabis licenses.

4)5) Allowable land use zoning:

- a)a. Historic Residential (HR) Zone (MTC 18.35) and Single Family Residential (R-1) zone (MTC 18.30): Private property consumption, and cultivation of up to 6 mature and 6 immature plants per household.
- b)b. Single Family Residential (R-1) Zone (MTC 18.30) (If ancillary to the single-family home): Cannabis Producer Microbusiness.
- e)c. Residential Agricultural (RA) Zone (MTC 18.25) and Rural Farm (RF) zone (MTC 18.20): allows for cultivation, Cannabis testing Laboratory, Cannabis producer, Cannabis testing laboratory, vertically integrated cannabis establishment, Cannabis training and education.
- e)d. General Commercial (C) Zone (MTC 18.45) and Historic Commercial (HC) Zones (MTC 18.35): Cannabis retail. Cannabis manufacturer Class 1 and or Class 2- Safe and secure extraction only allowed in this zone. Cannabis Consumption area with a special use permit only.

Cannabis Consumption area with a special use permit only.

5)6). Specific Requirements Regarding the Premises.

- a)a. The proposed licensed premises are in a fixed, permanent, non-portable building and are not located in a movable or mobile structure or in a vehicle, nor is it operated as a home occupation under Town regulations.
- b)b. The size of the premises is compatible and compliant with the applicable zoning district limitations regarding square footage for that zone.
- e)c. The applicant must have sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises as shown by a deed or other instrument of record. The applicant must show proof that the lessor has agreed to use of the premises as a cannabis establishment.
- e)d. All storage, dispensing, manufacture, production, and cultivation activities shall be conducted indoors in a building meeting the requirements of Subsection (a).
- e)e. Plants, products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or right-of-way.
- f)f. Sign regulations are and governed by the zone of which the license shall be issued.
- e)g. The proposed licensed premises have a suitable limited access area where the cultivation, display, storage, processing, weighing, handling, and packaging of cannabis and cannabis infused products occurs, which is posted “employees only,” and is separated from the areas

accessible to the public by a wall, counter, or some other substantial barrier designed to keep the public from entering the area.

h)h. The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the Town's ~~Marshal Department or Building~~designated Official, and showing at least the following minimum-security measures:

- i. All doors, windows and other points of entry have secured and functioning locks.
- ii. A locking safe or enclosed secured storage located inside the proposed licensed premises in which any cannabis and cannabis infused products will be secured when the licensed premises are not open to the public.
- iii. If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two (2) premises that can be locked from the licensee side and cannot be opened from the other side.
- iv. A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows, and other points of entry to the proposed licensed premises; and
- v. **Windows facing the adjacent grounds** or security camera's facing the adjacent grounds, and lighting of the adjacent grounds sufficient to ensure that customers entering and leaving the licensed premises, entering, and exiting parked cars on the adjacent grounds, and walking across the adjacent grounds can be observed by employees from inside the licensed premises.
- vi. All licensing requirements established by the State of New Mexico.

h)l. The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire, and other codes, statutes, and ordinances, as shown by completed inspections and approvals from the ~~Town's Building Official and~~ Town's ~~Fire Marshal.~~designated official

h)m. There is sufficient parking available on the proposed adjacent grounds given the size of the licensed premises and the number of employees and customers that can reasonably be expected to be present at any given time, pursuant to applicable provisions of the Town of Mesilla.

h)n. The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause any substantial harm to public health, safety, and welfare.

h)o. The proposed licensed premises are equipped with a ventilation system **with carbon filters** sufficient in type and capacity to eliminate cannabis odors emanating from the interior to

the exterior discernible by a reasonable person, including to any public property or right-of-way within the Town. The ventilation system must be inspected and approved by the Town Building Official's designated official. Refer back to (l) Mechanical Code compliance.

- m)m. The proposed licensed premises are located in a building that does not share any doors, windows, air passages, vents, ducts or any heating, ventilation, air conditioning, or air handling equipment or structures with any other building or premises whatsoever.
- n)n. Walls, barriers, locks, signs, and other means are in place to prevent the public from entering the area of the proposed licensed premises utilized for cultivation or production and manufacturing. The Town provides an exception for the perimeter fencing/wall requirements if the fencing materials are required by State Law for the production, manufacturing and cultivation of cannabis in the following zones: Rural Farm (RF) Zone (MTC 18.20) or Residential/Agricultural (RA) Zone (MTC 18.25) or Single-Family Residential (R-1) Zone (MTC 18.30).
- o)o. Customer visits and deliveries are prohibited between 12:00 a.m. 10:00 p.m. and 8:00 a.m. for any Cannabis Cultivation Facilities, Cannabis Producers, Cannabis-derived products facilities, located within 300 feet of a Residential zone district.
- p)p. The proposed licensed premises must ensure that the ventilation system, air filtration, building screening requirements, necessary security apparatus and lighting are all compatible with neighboring businesses and adjacent uses.
- q)q. Every licensee and its principals, registered manager, and employees have a continuing duty to ensure that the requirements of this Section continue to be met after the license is issued and at all times that the license remains in effect.
- r)r. The licensee abides by all Town ordinances regarding signage, land use and zoning, water service, and wastewater discharge.
- s)s. Commercial on-site cannabis consumption is prohibited in all zones until regulations promulgated by the State become effective, in which cases all other Town provisions regarding on-site consumption not prohibited by state regulation will be effective.
 - i. Commercial on-site consumption of cannabis is the commercial cannabis activity ingesting of cannabis or cannabis products in a licensed cannabis consumption area. Commercial on-site consumption is considered part of Cannabis Relief. Unless license pursuant to the Lynn and Erin compassionate use act, access to the cannabis consumption area is restricted to persons 21 years of age and older.

ii. Commercial on-site consumption of cannabis will not be permitted.

6)7) Delivery permit restrictions.

The following restrictions shall be placed on cannabis delivery permits:

Only medical or retail cannabis transporters ~~who qualify as a social equity applicant as defined in and by~~
~~the National Cannabis Industry Membership~~ who holds a valid license and a delivery permit issued may deliver regulated cannabis to private residences of customers and patients, subject to the provisions the NMCA and its pertinent regulations and rules.

7)8) Changes to License.

No licensee shall make any of the following major changes without first obtaining the written approval of the Town:

- a) Any transfer of the license or any ownership interest in the licensee entity or license.
- b) Any change in location of the licensed premises.
- c) Any change in the licensee's principals.
- d) Any change in the structure, walls, doors, windows, ventilation, plumbing, electrical supply, floor plan, footprint, elevation, operation, operational plan, patios, decks, safe or vault, locks, surveillance system, doors, window coverings, or security system at the licensed premises.
- e). Any material changes to the adjacent grounds, including but not limited to lighting, parking, and traffic flow.

8)9) Cultivation and Growing for Personal Use.

Individuals may possess, cultivate, and grow cannabis in their residence, including in a residential zoning district, but only for their personal use and subject to the following limitations as established under the New Mexico Cannabis Regulation Act, as amended:

- a) An individual must be at least twenty-one (21) years of age.
- b) It is unlawful to grow, cultivate, or process more than the designated number of cannabis plants per person, and per residence set forth in the New Mexico Cannabis Regulation Act, as amended, and any other applicable laws of the State of New Mexico.
- c) A residence shall not emit cannabis odors of any kind.
- d) Any growing or cultivation of cannabis products for personal use shall not be visible to the public.

- e) Any growing, cultivation or production of cannabis or cannabis infused products for personal use shall not be sold or transferred to third parties for future sale.
- f) No cannabis sale, production, distribution, manufacturing or cultivation shall be allowed in the Historic residential zone district, except for personal use and as specifically set forth herein.

~~9)10)~~ Establishment of New Fees.

- ~~a) a.~~ Planning and Building Cannabis application/inspection fee \$500.00
- ~~b) b.~~ Planning and Building records management fee \$100.00
- ~~c) c.~~ Planning and building site inspection fee \$500.00
- ~~d) d.~~ For Cultivation cottage or nursery initial Planning and Building /inspection fee \$800.00
- ~~e) e.~~ Cannabis Transporter/Courier Permit fee \$250
- ~~f) f.~~ A cannabis waste plan review fee \$50

~~10)11)~~ Renewal annual application fee for all cultivation permit types

- a) Planning and Building cannabis application/inspection fee \$500.00
- b) Planning and Building records management fee \$100.00
- c) Planning and Building site inspection (not charged unless required as part of a change as outlined in Section 8d and 8e).

~~11)12)~~ Renewal annual application fee for all other permit types

- a) Planning and Building cannabis application/inspection fee \$500.00
- b) Planning and Building records Management fee \$100.00
- c) Town issued Business License \$35.00
- d) Cannabis Transporter/Courier Permit \$250

Licensee shall ensure that all licensed premises are in compliance with Construction Industries Licensing Act and comply with the Occupational Health and Safety Act.

~~12)13)~~ Revocation of License.

- a) Any person in violation of a local Town cannabis license as set forth herein is subject to revocation for violations of this Ordinance, other Town ordinances, or New Mexico State or Federal laws.
- b) If the Town finds that there is probable cause that a violation has occurred, it shall immediately investigate the alleged violation.
- c) Upon evidence of a violation, the Town shall notify the licensee in writing of the specific allegations and the date of hearing scheduled for the Town Trustees to consider the revocation or any other appropriate action involving the license.

d) During the license revocation hearing, the Town Trustees will hear evidence from Town staff and the licensee. Each party will be given an opportunity to be heard, to present witnesses, to cross examine witnesses, and to present evidence and exhibits in support of his or her case. At the conclusion of the hearing, the Town Trustees will make formal findings as to the reasons for revoking the license or allowing it to remain in place with conditions.

e) If a cannabis license issued under this Ordinance is revoked, the licensee must cease doing business immediately, or as prescribed by the Town.

~~13~~14) Enforcement. The provisions of this Ordinance shall be enforced by the Town's Code Enforcement Officer, or a law enforcement officer tasked with enforcing the Town's Code.

~~14~~15) Penalties. Any violation of this Ordinance may be enforced in any court of competent jurisdiction. The maximum penalty per violation of this Ordinance, unless otherwise indicated, shall be up to \$500 and/ or up to 90 days in jail. Each day during the time in which a violation occurs shall be deemed a separate violation. Nothing herein shall prevent the Town from seeking injunctive relief, if appropriate

SECTION 2. Repealer

All ordinances or resolutions, or part therefore, inconsistent with this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution.

SECTION 3. Effective Date

This ordinance shall be in full force and effect, five (5) days after this approval, adoption and publication as provided by law.

PASSED, ADOPTED AND APPROVED this [MONTH] [DAY], [YEAR].

Nora L. Barraza

Mayor

Town of Mesilla

ATTEST:

By: _____

Cynthia Stoeher-Hernandez

All proposed revisions recommended by Kushology of current proposal are highlighted in yellow and striken.

Proposed additions by Kushology are highlighted light grey, in orange font, and underlined.

1. Section 2 (1)Definitions h) “Cannabis Manufacturer”. As per NMAC 16.8.2.29 (A.). **PAGE 5 and 6**
 - a. Classify all four classes of Cannabis Manufacturing. “Class 1-4” in accordance with amended state statute. A copy is attached to email.
2. Section 4. General Licensing Requirements g). **PAGE 10**
 - a. Change a retail establishment to “any” retail establishment. Retail sales pose a great risk to the public for robbery and require significant procedures to secure cash. All retail locations should NOT be located near residential areas.
 - b. Make changes to allow “only Retail and Class 1 and or 2” combined in zones listed in paragraph. Class 1 allows for packaging of bulk items such as flower and pre rolls. Most Cannabis products are purchased in bulk for resale. Class 2 allows edible products to be made on site with distillates purchased and produced off site from a licensed manufacturer. Most edibles will have to be produced onsite due to State requirements that all products are made in NM with distillates purchased from licensed facility made with in the State.
3. Section 4. General Licensing Requirements h). **PAGE 10**
 - a. Add “Class 3 and 4” for clarification. The State has classified these manufacturing practices and require specialized equipment and training. These classifications may also require additional fire safety practices for their inherent danger.
4. Section 4. General Licensing Requirements i). **PAGE 11**
 - a. Clarify manufacturing “classes 3 and 4” only to require adequate water supply. Classes 3 and 4 are true manufacturing and require additional water resources. The other classes do not require additional water resources.
5. Section 4. General Licensing Requirements n). **PAGE 11**
 - a. Simplify hours of operation. As previously stated in my email. Cannabis sales are Federally Illegal and 90% of sales are cash. These circumstances require due diligence and require all safety procedures to account for these conditions. Allowing sales from “10:00 a.m. - 9:00p.m. Monday - Sunday” allows adequate time for any retail location to produce sales and limits excessive workload for the Mesilla Marshals.
6. Section 5. Allowable land use zoning b). **PAGE 12**
 - a. Clarify “Cannabis Producer Microbusiness” allowed in Residential Zone. Allowing all Micro Business would allow retail sales in residential sales, which are not allowed in residential areas.
7. Section 5. Allowable land use zoning d). **PAGE 12**
 - a. Clarify. Only Manufacture “Class 1 and 2” allowed in these zones. These classes are required for retail sales and aligns proposed ordinance with State Statute. State Statute does not list and extraction methods as safe, they are classified as other classes.
8. Section 6 Specific Requirements Regarding the Premises (h) v. **PAGE 13**
 - a. Add the wording or “security cameras facing adjacent grounds”. As previously stated. The retail operations of Cannabis sales will require large investments to secure and safely guard staff, consumers, product, and monies. Requiring windows will create additional safety threats. The State security plans do not recommend windows. The cameras required by the State safety program will allow a better view then windows.
9. Section 6 Specific Requirements Regarding the Premises (h) l. **PAGE 13**
 - a. Remove “with carbon filters”. There are many other ways to eliminate odors and this allows any type to be approved by the Town. Section 2(d) also addresses the odor.
10. Section 6 Specific Requirements Regarding the Premises (0). **PAGE 14**
 - a. Change time for no deliver between “10:00 p.m. and 8:00 a.m”. For security purposes, no cannabis operation should occur between these times.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 8 COMMERCIAL AND MEDICAL CANNABIS
PART 11 FEES

16.8.11.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Cannabis Control Division.
[16.8.11.1 NMAC - N, 08/24/2021]

16.8.11.2 SCOPE: This rule applies to all applicants and licensees applying for licensure and renewal of licensure under all license types as set forth in the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act.
[16.8.11.2 NMAC - N, 08/24/2021]

16.8.11.3 STATUTORY AUTHORITY: The requirements set forth herein are promulgated by the cannabis control division pursuant to the authority granted under the Cannabis Regulation Act and the licensing provisions of the Lynn and Erin Compassionate Use Act.
[16.8.11.3 NMAC - N, 08/24/2021]

16.8.11.4 DURATION: Permanent.
[16.8.11.4 NMAC - N, 08/24/2021]

16.8.11.5 EFFECTIVE DATE: August 24, 2021, unless a later date is cited at the end of a section.
[16.8.11.5 NMAC - N, 08/24/2021]

16.8.11.6 OBJECTIVE: The objective of Part 11 is to establish a uniform schedule of fees applicable to licenses issued under the Cannabis Regulation Act.
[16.8.11.6 NMAC - N, 08/24/2021]

16.8.11.7 DEFINITIONS: Unless otherwise defined below, terms used in Title 16, Chapter 8, Part 1, have the same meanings as set forth in 16.8.1 NMAC, the Cannabis Regulation Act, and the Lynn and Erin Compassionate Use Act.
[16.8.11.7 NMAC - N, 08/24/2021]

16.8.11.8 GENERAL PROVISIONS FOR FEES: [RESERVED]
[16.8.11.8 NMAC - N, 08/24/2021]

16.8.11.9 ANNUAL LICENSING FEES: Every application for the issuance or renewal of the following licenses shall be accompanied by an annual licensing fee in the following specified amounts:

- | | |
|---|--|
| A. Cannabis courier license: | \$250 annually |
| Each additional licensed premises of the licensee: | \$100 annually |
| B. Cannabis testing laboratory license: | \$2,500 annually |
| Each additional licensed premises of the licensee: | \$1,000 annually |
| C. Cannabis manufacturer license: | \$2,500 annually |
| Each additional licensed premises of the licensee: | \$1,000 annually |
| D. Cannabis producer license: | \$2,500 annually |
| Each additional licensed premises of the licensee: | \$1,000 annually |
| E. Cannabis retailer license: | \$2,500 annually |
| Each additional licensed premises of the licensee: | \$1,000 annually |
| F. Cannabis research laboratory license: | \$2,500 annually |
| Each additional licensed premises of the licensee: | \$1,000 annually |
| G. Vertically integrated cannabis establishment license: | \$7,500 annually |
| Each additional licensed premises of the licensee: | \$1,000 annually |
| H. Cannabis producer microbusiness license: | License fees for cannabis producer microbusinesses |

shall be determined by the number of plants growing under each license.

- (1) **Licensees growing 100 plants or less:** \$500 annually
- (2) **Licensees growing 101 to 200 plants:** \$1,000 annually

I. Integrated cannabis microbusiness license: License fees for integrated cannabis microbusinesses shall be determined by the number of activities conducted under each license. Activities considered are defined by the Cannabis Regulation Act and entail:

- (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 premises;
- (3) sale and transportation of only cannabis products produced or manufactured by that person;
- (4) operation of only one retail establishment; or
- (5) couriating of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

- (a) Two activities: \$1,000 annually
- (b) Three activities: \$1,500 annually
- (c) Four activities: \$2,000 annually
- (d) Five activities: \$2,500 annually

J. Cannabis consumption area:
[16.8.11.9 NMAC - N, 08/24/2021]

16.8.11.10 ANNUAL LICENSING FEE PRORATION: Licensees submitting an amended application to add or change a license type shall only be required to pay the difference between the fee for the original license type and the fee for the amended license type, provided that the division will not issue any refunds. The division shall prorate the fee to align with the expiration date of the licensee's original license.
[16.8.11.10 NMAC - N, 08/24/2021]

16.8.11.11 ANNUAL PER PLANT FEE:

A. Commercial cannabis plants: Except for cannabis producer microbusinesses and integrated cannabis microbusinesses, a licensee cultivating commercial cannabis plants shall be assessed an additional annual fee per mature cannabis plant at the time of licensing, incremental increase as set forth in 16.8.8.10 NMAC, and licensure renewal as set forth in 16.8.2.17 NMAC. Plant fee shall be assessed based on the plant limit license designation as set forth in subparagraph A in 16.8.8.9 NMAC, as follows:

- (1) Level 1: \$10.00 per mature cannabis plant;
- (2) Level 2: \$10.00 per mature cannabis plant;
- (3) Level 3: \$10.00 per mature cannabis plant; and
- (4) Level 4 and above: \$10.00 per mature cannabis plant.

B. Medical cannabis plants: Except for cannabis producer microbusinesses and integrated cannabis microbusinesses, a licensee cultivating solely medical cannabis plants shall be assessed an additional annual fee per mature cannabis plant at the time of licensing, incremental increase as set forth in 16.8.8.10 NMAC, and licensure renewal as set forth in 16.8.2.17 NMAC. Plant fees shall be assessed based on the plant limit license designation as set forth in subparagraph A in 16.8.8.9 NMAC, as follows:

- (1) Level 1: \$5.00 per mature cannabis plant;
- (2) Level 2: \$5.00 per mature cannabis plant;
- (3) Level 3: \$5.00 per mature cannabis plant; and
- (4) Level 4 and above: \$5.00 per mature cannabis plant.

[16.8.11.11 NMAC - N, 08/24/2021]

16.8.11.12 FEE LIMITATIONS: Application, license, premises and plant fees, or license renewal, premises renewal and annual plant fees shall not exceed \$125,000 for a vertically integrated cannabis establishment license for both medical cannabis activity and commercial cannabis activity. License fees or renewal fees for a license that authorizes only medical cannabis activity shall be one-half the fee applicable to a license authorizing both medical cannabis activity and commercial cannabis activity.
[16.8.11.12 NMAC - N, 08/24/2021]

16.8.11.13 PROHIBITED ACTIVITY AND IMPACTS ON FEES: Cannabis producer microbusiness or

integrated cannabis microbusinesses entering into a business arrangement with another licensee with the purpose or having the effect of evading the limitations of the licensee's license shall not be eligible for the lower fee prescribed in Subsections H and I of 16.8.11.9 NMAC. Upon entering into such an arrangement, the licensees shall immediately pay the per-plant fee as set forth in 16.8.11.11 NMAC and the applicable fee for a producer license or vertically integrated cannabis establishment license as set forth in 16.8.11.9 NMAC.
[16.8.11.13 NMAC - N, 08/24/2021]

16.8.11.14 FEE PAYMENT TYPES ACCEPTED: The division shall accept payment for annual licensing fees and annual per plant fees from sources including credit cards, debit cards, electronic checks, electronic bank transfers, automated clearing house payments, or cashier's checks. Other forms of payment, including cash, shall not be accepted.
[16.8.11.14 NMAC - N, 08/24/2021]

16.8.11.15 RENEWAL FEE COLLECTION TIMING: The division shall collect all renewal fees, including annual per plant fees, at the time of renewal of a license.
[16.8.11.15 NMAC - N, 08/24/2021]

16.8.11.16 SEVERABILITY: If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.
[16.8.11.16 NMAC - N, 08/24/2021]

History of 16.8.11 NMAC: [RESERVED]