

**CITY OF GRANTS  
ORDINANCE 23-1273**

**AN ORDINANCE AMENDING CITY OF GRANTS ORDINANCE 22-1261; PROVIDING FOR REGULATION OF CANNABIS ESTABLISHMENTS, FACILITIES & ACTIVITIES; PROVIDING A PENALTY; ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE**

**WHEREAS**, Section 3-18-1 NMSA 2018 provides that Cities, have the power to enact ordinances to "provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any City or its inhabitants"; and,

**WHEREAS**, NMSA 1978, Section 26-2C-12 (2021), and NMSA 1978, Sections 24-16-2 (1985) and -20 (2007) vests the City with the authority to adopt time, place and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses; and,

**WHEREAS**, the Cannabis Regulation Act, NMSA 1978, Section 26-2C-1 *et seq.*, has authorized a variety of uses related to the legalization of commercial cannabis activities, which legalization has the potential to greatly expand the legal cannabis market; 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**, Cannabis is an intoxicating drug, making it appropriate to regulate the hours during which cannabis products may be sold and the areas in which cannabis products may be consumed; and,

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

**WHEREAS**, density limits are necessary to ensure that cannabis retailers and consumption areas are not unduly concentrated and do not crowd out other nonresidential uses; and

**WHEREAS**, the City of Grants finds it necessary repeal Ordinance No. 22-1261 by adoption of this Ordinance to restrict the time, place, and manner of cannabis establishments and activities to protect residents from annoyance and injury resulting from such operations, and to prescribe penalties for violations of this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Grants as follows:**

**SECTION I**  
**SHORT TITLE**

1.1 This Ordinance shall be known as the "City of Grants Cannabis Ordinance" and shall be referred to herein as "this Ordinance".

**SECTION II**  
**INTERPRETATION, CONFLICT AND WORD CONSTRUCTION**

2.1 INTERPRETATION & CONFLICT. The regulations provided herein are held to include the minimum standards necessary to carry out the purposes of this Ordinance. This Ordinance is not intended to interfere with, abrogate or annul any other valid Ordinance. Where the provisions of this Ordinance conflict with other rules, regulations, agreements or other City Ordinances or resolutions, the provisions of this Ordinance shall be controlling. Where this Ordinance imposes greater restrictions than those imposed by other rules, regulations, agreements or other City ordinances or resolutions, the provisions of this Ordinance shall be controlling.

2.2 WORD CONSTRUCTION. The words used in the present tense include the future tense; words in the masculine include the feminine; and words in the singular include the plural.

**SECTION III**  
**DEFINITIONS**

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

**Cannabis:** (1) 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 its seeds or its resin; and

(2) does not include:

(a) the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or

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

**Cannabis Consumption Area:** an area where cannabis products may be served and consumed.

**Cannabis Courier:** a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

**Cannabis Establishment:** (1) a cannabis testing laboratory; (2) a cannabis manufacturer; (3) a cannabis producer; (4) a cannabis retailer; (5) a cannabis research laboratory; (6) a vertically integrated cannabis establishment; (7) a cannabis producer microbusiness; or (8) an integrated cannabis microbusiness (9) a cannabis consumption area.

**Cannabis Extract:** (1) means a product obtained by separating resins, tetrahydrocannabinols or other substances from cannabis by extraction methods approved by the division; and (2) does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product.

**Cannabis Flowers:** only the flowers of a cannabis plant.

**Cannabis Manufacturer:** a person that: (1) manufactures cannabis products; (2) packages cannabis products; (3) has cannabis products tested by a cannabis testing laboratory; or (4) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments.

**Cannabis Producer:** a person that: (1) cultivates cannabis plants; (2) has unprocessed cannabis products tested by a cannabis testing laboratory; (3) transports unprocessed cannabis products only to other cannabis establishments; or (4) sells cannabis products wholesale.

**Cannabis Producer Microbusiness:** a cannabis producer at a single licensed premises that possesses no more than two hundred total mature cannabis plants at any one time.

**Cannabis Product:** a product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients.

**Cannabis Research Laboratory:** a facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

**Cannabis Retailer:** a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

**Cannabis Testing Laboratory:** a person that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing.

**Commercial Cannabis Activity:** (1) the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and (2) does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis.

**Consumer:** a person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale.

**City;** the area lying within the corporate boundaries of the City of Grants.

**Cultivation:** any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

**Dry Weight Basis:** when used in the context of regulation of commercial cannabis activity, means a process by which delta-9-tetrahydrocannabinol concentration is measured relative to the aggregate weight of all parts of the plant genus Cannabis, whether growing or not, including the leaves of the plant, the flowers and buds of the plant, the seeds of the plant, the resin of the plant and the stalks of the plant at the point of harvest by a licensee and with no moisture added to the harvested plant.

**E-cigarette:** a product containing or delivering nicotine or another substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product, including a device, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah or vape pen or under another product name or descriptor.

**Facility:** a building, space or grounds licensed for the production, possession, testing, manufacturing or distribution of cannabis, cannabis extracts or cannabis products.

**Government Facility:** a facility, agency or area used for public purposes, and owned or operated by an instrumentality or agency of federal, state or local government.

**Integrated Cannabis Microbusiness:** a person that is authorized to conduct one or more of the following: (1) production of cannabis at a single licensed premises; provided that the person shall not possess more than two hundred total mature cannabis plants at any one time; (2) manufacture of cannabis products at a single licensed premises; (3) sales and transportation of only cannabis products produced or manufactured by that person; (4) operation of only one retail establishment; and (5) couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

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

**Manufacture:** to compound, blend, extract, infuse, package or otherwise prepare a cannabis product.

**Medical Cannabis:** cannabis products used by a qualified patient or reciprocal participant in accordance with the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

**Medical Cannabis Program:** the program created pursuant to the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

**Medical Cannabis Registry:** the system by which the department of health approves or denies applications and issues and renews registry identification cards for qualified patients.

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

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

**Public Property:** any property owned or occupied by the City of Grants, New Mexico.

**Qualified Patient:** a resident of New Mexico who holds a registry identification card pursuant to the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

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

**Residence:** a place where someone lives.

**Retail Establishment:** a location at which cannabis products are sold to qualified patients, primary caregivers and reciprocal participants and directly to consumers.

**Smoking:** (1) inhaling from, exhaling from, burning, carrying or holding: (a) a lighted or heated cigar, cigarette, hookah or pipe; or (b) any other lighted or heated tobacco or plant product intended for inhalation, including cannabis, whether natural or synthetic; or (2) any use of an e-cigarette that creates an aerosol or vapor.

**Standalone Building:** a building whose heating, air conditioning and ventilation system services only that building.

**Unprocessed:** unaltered from an original, raw or natural state.

**Vertically Integrated Cannabis Establishment:** a person that is authorized to act as any of the following: (1) a cannabis courier; (2) a cannabis manufacturer; (3) a cannabis producer; and (4) a cannabis retailer.

#### **SECTION IV**

#### **CANNABIS SMOKING**

- 4.1 No person shall smoke Cannabis products in a Public Place or on Public Property, except in a Cannabis Consumption Area.
- 4.2 No person shall smoke Cannabis products in any place where the smoke is detectable from a Public Place or on Public Property.

**SECTION V**  
**RECREATIONAL AND MEDICAL CANNABIS ZONING AND OTHER**  
**REGULATIONS**

- 5.1 In addition to the applicable authority set forth elsewhere in State law, the zoning and other regulations in this section are enacted pursuant to the City's authority in Section 12 of the Cannabis Regulation Act, Laws 2021 (1st S.S.), Chapter 4, and NMSA 1978, §§24-16-2 (1985) and 24-16-20 (2007).
- 5.2 The Cannabis Regulation Act has authorized a variety of uses related to the legalization of commercial cannabis activities, which legalization has the potential to greatly expand the legal cannabis market.
- 5.3 Cannabis cultivation, production, and manufacturing 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 (21).
- 5.4 Cannabis is an intoxicating drug, making it appropriate to regulate the hours during which cannabis products may be sold and the areas *in* which cannabis products may be consumed.
- 5.5 The smoking of cannabis products may create health risks due to exposure to secondhand smoke and vaporized cannabis concentrates.
- 5.6 Density limits are necessary to ensure that cannabis retailers and consumption areas are not unduly concentrated and do not crowd out other non-residential uses.
- 5.7 Cannabis consumption areas are subject to the following:
  - 5.7.1 cannabis consumption areas in which consumption is limited to consumption by qualified patients or reciprocal participants may be located inside any cannabis retailer; provided however, that smoking of cannabis products in such consumption areas is only allowed if the cannabis consumption area occupies a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Air Indoor Act.

- 5.7.2 Cannabis consumption areas that allow consumption by consumers shall be treated the same as the following uses: Bars, taverns and nightclubs. Cannabis consumption areas that are open to consumers are also subject to the following:
- a. Designated outdoor smoking areas only of an approved cannabis establishment unless otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act, NMSA 1978.
  - b. the smoking of cannabis products is only allowed within a licensed cannabis consumption area that occupies a standalone building room which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act, NMSA 1978, Chapter 24, Article 16; and
  - c. access to cannabis consumption areas open to consumers is restricted to persons twenty-one (21) years of age and older.
- 5.8 No more than one (1) cannabis retailer per 2,500 people in the population of the City of Grants may obtain a cannabis establishment permit in the City of Grants.
- 5.9 No cannabis establishment, cannabis consumption area, or cannabis courier may be located within 300 feet of a school or daycare center or library or church or senior and recreation center in existence at the time a license was sought for the cannabis establishment, cannabis consumption area, or cannabis courier. For purpose of this section, all measurements for the purpose of determining the location of a cannabis establishment, cannabis consumption area, or cannabis courier in relation to schools or daycare centers shall be the shortest direct line measurement between the actual limits of the real property of the school or daycare center and the actual limits of the real property of the proposed cannabis establishment, cannabis consumption area, or cannabis courier.
- 5.10 Minimum separation distance: 300 feet. A cannabis establishment or medical cannabis facility must maintain a minimum separation distance of 300 feet from school or daycare center or library or church or senior and recreation center.
- 5.11 Exception for Subsequent uses of Nearby Property. A cannabis establishment, lawfully operating under this Ordinance, shall not be deemed to be in violation of the location restrictions set forth above solely because a specific use subsequently locates within the minimum required distance of the cannabis establishment, or when any other lot or tract within the required minimum distance of the cannabis establishment subsequently becomes a residence.
- 5.12 Cannabis retailers and cannabis consumption areas may only operate during the following hours:

- a. Cannabis products may only be served and consumed in cannabis consumption areas between the hours of 7:00 am and 2:00 am Monday through Saturday and noon to midnight on Sundays.
- b. Cannabis retailers may only sell cannabis products for off-site consumption between the hours of 7:00 am and midnight Monday through Saturday and noon to midnight on Sundays.

5.13 Cannabis producers that cultivate cannabis plants indoors and cannabis manufacturers must fuse industry standard techniques to minimize odorous matter, toxic or noxious matter, such as activated carbon filtration and regular maintenance of HVAC systems.

5.14 Cannabis cultivation and production for personal use in quantities and as permitted by the City of Grants Clean Indoor Air Ordinance is allowed anywhere in the City, subject to the following. Cannabis cultivation and production for personal use must be conducted inside an enclosed and locked dwelling unit or an appropriate accessory structure (e.g., a controlled-environment agricultural structure).

5.15 Any person engaged in commercial cannabis activities and activities under the medical cannabis program other than personal production and use must obtain a City business license.

## **SECTION VI** **CANNABIS REGISTRATION PERMIT**

Any person seeking to operate a cannabis establishment in the City may only obtain a cannabis establishment permit under the following conditions:

6.1 The permit shall be obtained from the City Clerk's Office

6.2 The cost of the permit shall be \$250.00 for the initial permit, and \$100.00 for annual renewal of the permit due by the 15<sup>th</sup> of March. Fees will not be prorated.

- a. Any annual renewal fee that is not received by the City Clerk's Office by the 15<sup>th</sup> of March will be assessed a \$50.00 late fee.

6.3 The City Clerk and/or her/his designee shall gather the following information from the applicant. All applicants must provide:

- a. The name, address, and business organization of the applicant and location the applicant intends to transact business, as well as the specific business to be transacted.
- b. If the applicant is an individual, they must provide the residence address of the applicant as well as the applicant's birthdate and social security number.



- c. If the applicant is a partnership, the names, residence addresses, birthdates, and social security numbers of all partners.
- d. If the applicant is a Limited Liability Company, they must provide the state of organization, address of the resident agent in New Mexico sufficient for service of process, the name of the managing member together with residence address, birthdate, and social security number and the name, residence address, birthdate and social security number of each member of the company.
- e. If the applicant is a corporation, they must provide the state of incorporation, the name and address of the registered agent in New Mexico sufficient for service of process, the name, residence, birthdate, and social security number of each officer or director of the corporation.
- f. Prior to the issuance of a permit, any Limited Liability they must provide company or corporation shall provide certificate of good standing.
- g. The applicant shall provide Federal and State tax identification numbers.

6.4 Prior to issuance of a permit, the Code Enforcement Official and/or her/his designee shall confirm compliance with distancing and fencing requirements as provided in Section V (Location) and Section VII (Fencing).

6.5 No permit shall be issued to a temporary or portable building.

6.6 No permit shall be issued to a drive-through cannabis establishment.

6.7 Failure to meet the conditions above will result in the permit being denied.

6.8 If denial of an application for a new permit or renewal permit is deemed necessary, written notice of the decision shall be provided to the applicant.

6.9 Any person or entity denied a permit may, within ten (10) days of the receipt of notice of the denial, file an appeal with the City of Grants City Council. The Notice of Appeal shall be delivered to the City Manager and a hearing shall be scheduled within thirty (30) days of receipt of the Notice. The appeal shall be de novo and the burden of proof shall be on the applicant to establish entitlement to a permit. The Council shall make written findings of fact and conclusions of law supporting its decision. Any further appeal shall be to the District Court, in accordance with NMSA 1978, Section 39-3-1.1 and Rule 1-074 NMRA.

6.10 Operation of a cannabis establishment without a permit is a violation of this Ordinance.

**SECTION VII**  
**FENCING**

Each Cannabis producer, cannabis research laboratory, and cannabis testing laboratory is required to erect and maintain a lockable fence of sturdy construction measuring at least six feet in height, enclosing and screening from view the area where cannabis is located. The enclosure shall remain securely locked during non-business hours.

**SECTION VIII**  
**MOBILE UNITS**

Cannabis sales from mobile, portable, or temporary units or drive-thru locations are prohibited.

**SECTION IX**  
**EXISTING CANNABIS ESTABLISHMENTS**

Any cannabis establishment existing as of the date of the passage of this Ordinance shall not be required to comply with the location requirements of this Ordinance. However, the owners of such businesses shall, within 90 days of the effective date of this Ordinance, submit an application for a permit unless owners have previously been granted a permit pursuant to Ordinance No. 22-1261.

**SECTION X**  
**REPEAL OF ORDINANCE NO. 22-1261**

Ordinance No. 22-1261 is hereby repealed.

**SECTION XI**  
**ENFORCEMENT**

The City of Grants Police Department and/or Code Enforcement Official may issue citations for violation of this Ordinance.

**SECTION XII**  
**PENALTIES**

Any violation of this ordinance may be enforced in any court of competent jurisdiction. The maximum penalty per violation shall be punishable by a fine of no more than \$500, and/or imprisonment for no more than 90 days, or both. Any person who violates any of the provisions of the Recreational and Medical Cannabis Regulations shall be deemed guilty of a misdemeanor. Each day not in compliance is a separate violation.

**SECTION XIII**  
**SAVING CLAUSE**

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

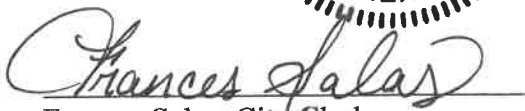
**SECTION XIV**  
**EMERGENCY CLAUSE AND EFFECTIVE DATE**

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

PASSED, APPROVED, AND ADOPTED this 29<sup>th</sup> day of March, 2023



ATTEST:

  
Frances Salas, City Clerk  
CITY OF GRANTS

  
George Garcia, Mayor Pro Tem  
CITY OF GRANTS