

TOWN OF EDGEWOOD ORDINANCE 2022-03

AN ORDINANCE ADOPTING THE LEGISLATIVE INTENT, FINDINGS, AND PURPOSE RELATING TO THE REGULATION OF CANNABIS AND ESTABLISHING A TOWN CANNABIS BUSINESS LICENSE; SETTING FORTH VIOLATIONS; AND PROVIDING FOR ENFORCEMENT AND PENALTIES

SECTION 1: SHORT TITLE

Sections 1 through 20 may be cited as the “Cannabis Regulation Ordinance”.

SECTION 2: RECITALS

WHEREAS, cannabis contains tetrahydrocannabinol (“THC”), which remains on Schedule 1 of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et. al. and any possession and use thereof is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.; and

WHEREAS, the New Mexico Cannabis Regulation Act (“CRA”) was enacted and signed into law in April 2021 allowing for the establishment and operation of certain cannabis businesses in the Town of Edgewood (“Town”) according to a prescribed statutory and regulatory process; and

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

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

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

WHEREAS, the Town desires to adopt such rules regulating the time, place, and manner of cannabis businesses, and other restrictions related to cannabis establishments as provided by applicable law; and

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

WHEREAS, this ordinance is adopted to protect the health, safety, and welfare of the community as it relates to the regulation and use of cannabis by imposing certain time, place, and manner restrictions on cannabis businesses; and

WHEREAS, the Town requires compliance with all applicable laws and regulations regarding the sale, cultivation, manufacturing, transport, production, distribution, and consumption of cannabis and cannabis related products; and

WHEREAS, this Ordinance is subject to amendment from time to time, as the CRA or the governing rules and regulations adopted by the Cannabis Control Division of the New Mexico Department of Regulation & Licensing change; and

WHEREAS, this Ordinance establishes a local Town of Edgewood cannabis business license and distinct rules for the licensing of recreational cannabis and cannabis infused and or related products within the jurisdictional boundaries of the Town of Edgewood; and

WHEREAS, these local rules and regulations are in addition to licensing requirements established by the State of New Mexico and are necessary for the Town to initiate “time, place and manner” restrictions as authorized by the New Mexico Cannabis Regulation Act as amended; and

WHEREAS, this ordinance establishes the Town’s local cannabis license for the sale, production, distribution, cultivation of cannabis and cannabis infused and related products within the Town’s jurisdictional limits. The Town shall have the authority to grant, deny and or revoke a local Town cannabis business license as set forth herein;

NOW THEREFORE, the Town adopts the following ordinance, to be enacted by the Governing Body, for the regulation of cannabis consistent with the CRA and all applicable law.

SECTION 3: PURPOSE

This Ordinance adopts local regulations regarding the sale, production, transport, manufacture, cultivation, and use of cannabis within the Town to protect the health, safety, and welfare of the community.

SECTION 4: DEFINITIONS

The below words and phrases, wherever used in this ordinance, shall not conflict with the definitions contained in the CRA or pertinent laws and regulations with their subsequent amendments. To the extent a definition is deemed to conflict, the definition set forth in the CRA shall be controlling.

“Advertisement”

- 1) means a statement or a depiction that is intended to induce the purchase of cannabis products and that is displayed in printed material or on a sign or other outdoor display or presented in a radio, television, or other media broadcast or in digital media; and
- 2) does not include:

- a) a sign or outdoor display or other statement permanently affixed to a licensed premises that is intended to induce the sale of a cannabis product produced or sold on the premises
- b) a label affixed to a cannabis product or the covering, wrapper or container of a cannabis product; or
- c) an editorial or other material printed in a publication when the publication of the editorial or material was not paid for by a licensee and was not intended to promote the sale of cannabis products by a particular brand or company;

“Cannabis”

- 1) means all parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and
- 2) does not include:
 - a) the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil; or cake; or the sterilized seed of the plant that is incapable of germination; or
 - b) the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink, or other product.

“Cannabis consumption area” means an area where cannabis products may be served and consumed.

“Cannabis courier” means a person that transports cannabis products to qualified patients, primary caregivers, or reciprocal participants or directly to consumers.

“Cannabis establishment” means

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

An establishment may include any of the following:

- 1) A single retail location where the licensee may sell cannabis and cannabis-infused products to consumers, including edibles. It includes both recreational and medical cannabis.
- 2) An offsite manufacturing and production facility at which the licensee may manufacture and produce cannabis and cannabis-infused products, which are not sold on location but are sold or transferred to consumers at other locations. It includes both recreational and medical cannabis.
- 3) A cultivation facility at which the licensee may grow or cultivate cannabis and cannabis-infused products, which are not sold on location but are sold or transferred to consumers at other locations. It includes both recreational and medical cannabis.
- 4) A combined retail, production, and manufacturing location where the licensee may produce and manufacture cannabis and cannabis-infused products, including edibles, and also sell these products to consumers at the same location. It includes both recreational and medical cannabis.
- 5) A combined retail, production, manufacturing, and cultivation/growing location, where the licensee may cultivate and grow cannabis, produce, and manufacture cannabis, including cannabis-infused products and edibles, and also sell these products to consumers at the same location. It includes both recreational and medical cannabis.

“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” means only the flowers of a cannabis plant.

“Cannabis manufacturer” means a person that: (1) manufactures cannabis products; (2) packages

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

“Consume” means ingesting cannabis in any form which includes but is not limited to smoking, vaping, or consumption of edible products.

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

“Contaminant” means pesticides and other foreign material, such as hair, insects, or other similar adulterants, in harvested cannabis.

“Controlling person”

- 1) means a person that controls a financial or voting interest of ten percent or more of, or an officer or board member of, a cannabis establishment; and,
- 2) does not include a bank or licensed lending institution.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Department” means the regulation and licensing department.

“Director” means the director of the division.

“Division” means the cannabis control division of the department.

“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;

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

“Financial consideration” means value that is given or received, directly or indirectly, through sales, barter, trade, fees, charges, dues, contributions, or donations.

“Homegrown” or “homemade” means grown or made for purposes that are not dependent or conditioned upon the provision or receipt of financial consideration.

“Household” means a housing unit and includes any place in or around the housing unit at which an occupant of the housing unit produces, manufactures, keeps, or stores homegrown cannabis or homemade cannabis products.

“Immature cannabis plant” means a cannabis plant that has no observable flowers or buds.

“Industry standards” means the prevailing customary standards of business practice in the cannabis industry in jurisdictions within the United States.

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

- 1) production of cannabis at a single licensed premises, provided that the person shall not possess more than two hundred total mature cannabis plants at any one time;
- 2) manufacture of cannabis products at a single licensed 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” means a location that includes:

- 1) all enclosed public and private areas at the location that are used in the business and includes offices, kitchens, restrooms and storerooms.
- 2) all areas outside of a building that are specifically included in the license for the production, manufacturing, wholesale, 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 of partition of land that the licensee owns, leases or has a right to occupy.

“Local jurisdiction” means a municipality, home rule municipality or county.

“Manufacture” means to compound, blend, extract, infuse, package, or otherwise prepare a cannabis product.

“Medical cannabis” means cannabis products used by a qualified patient or reciprocal participant in accordance with the Lynn and Erin Compassionate Use Act.

“Medical cannabis program” means the program created pursuant to the Lynn and Erin Compassionate Use Act.

“Medical cannabis registry” means the system by which the department of health approves or denies applications and issues and renews registry identification cards for qualified patients.

“Primary caregiver” means a resident of New Mexico who is at least eighteen years of age and who is responsible for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act.

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

“Qualified patient” means a resident of New Mexico who holds a registry identification card pursuant to the Lynn and Erin Compassionate Use Act.

“Reciprocal patient” means 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.

“Retail establishment” means a location at which cannabis products are sold to qualified patients, primary caregivers, and reciprocal participants and directly to consumers.

“Superintendent” means the superintendent of regulation and licensing.

“Unprocessed” means unaltered from an original, raw or natural state; and

“Vertically integrated cannabis establishment” means 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 5: GENERAL REQUIREMENTS

- A. It shall be unlawful to use, sell, manufacture, cultivate, produce, or distribute cannabis on public property within the Town of Edgewood.
- B. Cannabis establishments shall not allow a person to consume cannabis on site, or on adjacent grounds.
- C. Cannabis establishments shall provide for proper and secure disposal of all cannabis products and by products and shall abide by the Town’s regulations regarding rubbish and discharges into the municipal wastewater system or septic systems.
- 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.

SECTION 6: ESTABLISHING A TOWN CANNABIS BUSINESS LICENSE

- A. This Ordinance establishes a local Town of Edgewood cannabis business license and distinct rules for the licensing of recreational cannabis and cannabis infused and or related products within the jurisdictional boundaries of the Town of Edgewood.
- B. These local rules and regulations are in addition to licensing requirements established by the State of New Mexico and are necessary for the Town to initiate “time, place and manner” restrictions as authorized by the New Mexico Cannabis Regulation Act as amended.
- C. This ordinance establishes the Town’s local cannabis license for the sale, production, distribution, cultivation of cannabis and cannabis infused and related products within the Town’s jurisdictional limits. The Town shall have the authority to grant, deny and or revoke a local Town cannabis business license as set forth herein.

SECTION 7: REQUIREMENTS OF THE TOWN CANNABIS BUSINESS LICENSE

- A. The Town of Edgewood, as the local cannabis business licensing authority, shall have the following powers and authority.

- 1) To issue, deny or revoke a Town business license and renewals of the same, and where necessary, to conduct a quasi-judicial hearing thereto.
 - 2) To impose any sanctions on a Town cannabis business license, including revocation, upon its own authority and initiations, or in response to a complaint by any person or persons for any violation by the licensee after investigation and a quasi-judicial 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 of law.
 - 3) To adopt application forms, fees, and submission requirements for a Town cannabis business license and a Town's General business license.
- B. No person or corporate entity may operate a cannabis establishment within the Town's jurisdictional control without first obtaining a Town cannabis business license.
- C. All licenses will be administrated and approved by the Town provided that the applicant has met all conditions and requirements established herein and paid the licensing fee of \$500.
- D. It is illegal to operate a cannabis establishment in the Town's jurisdictional area without first obtaining a local Town cannabis business license.
- E. Upon issuance, the Town cannabis license and Town business license shall be displayed within the premises and be visible to public view.

SECTION 8: General Licensing Requirements

- A. In order to obtain a Town cannabis business license under this Ordinance, the applicant must demonstrate the following:
- 1) The proposed licensed premises and adjacent ground meet all requirements for issuance of a State of New Mexico cannabis license and all applicable laws and regulations.
 - 2) The applicant shows proof of a valid State of New Mexico cannabis license.
 - 3) The applicant has met all requirements, including payment of any and all applicable taxes and fees, both local and state.
 - 4) 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 any and all license fees.
 - 5) 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.
 - 6) The applicant has submitted an application for a Town cannabis business license, on the established forms, that the Town Clerk has determined is complete.
 - 7) 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 Industrial, Light Industrial, or Commercial C2. A combined retail and production, manufacturing

or growing establishment is not allowed in a Commercial C2 Zone, or as otherwise specified in the Town's land use and zoning regulations. A cannabis related business may be issued a variance as per section 11 paragraph G of this ordinance.

- 8) 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, the applicant has demonstrated that the proposed licensed premises is located on or within property zoned or used as Industrial or Light Industrial, or as otherwise specified in the Town's land use and zoning regulations, including those uses subject to a special use permit.
- 9) 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.
- 10) The applicant must demonstrate that the location of the proposed licensed premises is no less than one thousand (1,000) feet from any other licensed cannabis establishment, except for any established cannabis business operating and meeting all the requirements as of the date of the enactment of this ordinance. Measurements shall be made from any entry or egress door of the two (2) proposed or existing licensed premises.
- 11) The applicant must demonstrate that the proposed licensed premises are not located within three hundred (300) feet of the property boundary of any school, child day care facility, community center, or church that provides child services of any kind. 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.
- 12) The applicant agrees to operating hours not earlier than 9 AM, nor later than 7 PM Monday through Saturday and not earlier than 12 PM, nor later than 7 PM on Sundays.
- 13) All proposed licensed premises, adjacent grounds, and related parking facilities which are located on Federal land within the Town are required to abide by applicable Federal law.
- 14) The application for a Town cannabis business license must specify the type of cannabis establishment involved, whether medical, retail, manufacturing, production, cultivation, or a combination of these.

SECTION 9: PERSONAL REQUIREMENTS FOR THE TOWN CANNABIS BUSINESS LICENSEE

- A. The applicant for a Town cannabis business License, principals, registered manager, and employees must meet all requirements under New Mexico State law.
- B. The applicant, principals, registered manager, and employees must be at least twenty-one (21) years of age.

- C. 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.

SECTION 10: SPECIFIC REQUIREMENTS REGARDING THE PREMISES

- A. The proposed licensed premises are located 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. Cannabis production for commercial sale is not allowed in or on any residential property or within 300 feet of residential zoned property.
- B. The size of the premises is compatible and compliant with the applicable zoning district limitations regarding square footage.
- 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 the use of the premises as a cannabis establishment.
- D. All storage, dispensing, manufacture, production, and cultivation activities shall be conducted indoors in a building meeting the requirements of Subsection (A).
- E. Plants, products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or right-of-way.
- F. The proposed licensed premises have a suitable limited access area where the cultivation, display, storage, processing, weighing, handling, and packaging of cannabis, cannabis infused products, and or cannabis related products occur, 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.
- G. The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the Town's Police Department and or Building Official, and showing at least the following minimum-security measures:
 - 1) All doors, windows and other points of entry have secured and functioning locks.
 - 2) 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.
 - 3) 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.

- 4) A professionally monitored burglar alarm system with panic button directed to the Regional Emergency Call Center (RECC) that detects unauthorized entry of all doors, windows, and other points of entry to the proposed licensed premises; and all storage areas containing cannabis or cannabis infused product.
 - 5) 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.
 - 6) All licensing requirements established by the State of New Mexico.
- H. 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 official and CID Building Officials.
- I. 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 Edgewood.
- J. 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.
- K. 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 and the State of New Mexico RLD/CID.
- L. 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.
- M. 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.
- N. No portion of the building in which the proposed licensed premises are located is utilized as a residence. Cannabis production for commercial sale is not allowed in or on any residential property or within 300 feet of residential zoned property.

- O. 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.
- P. 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.
- Q. The licensee abides by all State, County and Town's ordinances regarding signage, land use and zoning, water service, and wastewater discharge for both Public and Private septic systems.

SECTION 11: CANNABIS PRODUCTION

- A. The Town shall allow cannabis production, consistent with the CRA and the rules and regulations adopted by the Cannabis Control Division of the New Mexico Department of Regulation & Licensing. All producers shall maintain an active license issued by the State of New Mexico and all production facilities shall comply with all state law and regulations.
- B. Cannabis production for commercial sale is not allowed in or on any residential property or within 300 feet of residential zoned property.
- C. There shall be no cannabis production activity within 300 feet of the property boundary of any school, child day care facility or church that provides child services of any kind that was in existence at the time the cannabis producer obtained its license to produce cannabis from the State of New Mexico.
- D. Any person who desires to produce, cultivate, or process cannabis or cannabis related products that is for personal use and not for sale or gift within a primary residence they do not own shall obtain the prior written consent of the property owner before commencing any cultivation or processing of cannabis or cannabis related products on the property.
 - 1) 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 cannabis production for commercial sale is not allowed in or on any residential property or within 300 feet of residential zoned property 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 a residence.
- E. Any person who desires to produce, cultivate, or process cannabis or cannabis related products within a commercial building or property that they do not own shall obtain the prior written consent of the property owner before commencing any cultivation or processing of cannabis or cannabis related products on the property.
- F. Cannabis outdoor cultivation businesses may only be permissive within Agricultural Zones except that Accessory Uses as identified under 2019-03 B (6) shall not be permissive.
- G. A microbusiness may request a variance to operate in a Commercial C2 Zone pursuant to zoning and commission approval.
- H. Cannabis production facilities must utilize odor mitigation technology or techniques to mitigate the odor created by cannabis plants and products.

SECTION 12: CANNABIS RETAIL

- A. The Town shall allow cannabis retail establishments to operate pursuant to the CRA and all applicable rules and regulations adopted by the Cannabis Control Division of the New Mexico Regulation & Licensing Department. All cannabis retail establishments shall be properly licensed by the state of New Mexico.
- B. Cannabis retailers shall not operate within 300 feet of the property boundary of any school or child day care facility, community centers, or church that provides child services of any kind that was in existence at the time the cannabis retailer obtained its license to sell cannabis from the state of New Mexico.
- C. A cannabis establishment shall not operate within 300 feet of an adult liquor, beer and wine consumption, sales, or diner locations.
- D. Cannabis retail establishments may only operate within the hours of 9AM and 7 PM Monday through Saturday and 12PM and 7PM on Sundays. Customer visits and deliveries are prohibited between the hours of 7PM and 9AM and 7PM Sunday and 9AM Monday.
- E. All storage, dispensing, or retail activities shall be conducted indoors.

- F. Curb side service is allowed only for patrons with disabilities which shall be proven with a medical cannabis card.
- G. Cannabis retail establishments may only operate within Commercial C2 Zones.
- H. Cannabis retail establishments may not operate within 300 feet of residential zoned property unless the establishment was already operating under an approved state license pursuant to the Cannabis Regulation Act.
- I. Odor mitigation must be active to prevent odor from being detected by the public, adjoining businesses, and any minors.
- J. The number of cannabis retail establishments will be limited to one establishment per 2,000 residents of the incorporated area of the Town of Edgewood.

SECTION 13: CANNABIS MANUFACTURING

- A. Cannabis-derived products manufacturing is allowed, provided that the establishment complies with all New Mexico laws, and the rules and regulations adopted by the Cannabis Control Division of the New Mexico Regulation & Licensing Department. Cannabis manufacturers must maintain an active license issued by the State of New Mexico and must always operate within the scope of that license.
- B. Cannabis manufacturers shall not operate within 300 feet of the property boundary of any school, child day care facility, community center, or church that provides child services of any kind that was in existence at the time the cannabis manufacturer obtained its license to manufacture cannabis from the state of New Mexico.
- C. The manufacturing of cannabis derived products must take place indoors within a fully enclosed building on the licensed manufacturing premises.
- D. Cannabis manufacturers may use chemical extraction techniques or chemical synthesis, so long as the techniques used do not contradict those allowed under the CRA and the rules and regulations adopted by the Cannabis Control Division of the New Mexico Regulation & Licensing Department. However, the use of solvents such as butane, hexane, and other flammable gases to extract cannabis concentrate (“extraction”) poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and Town departments to respond to potential violations of state and local laws, including building, electrical and fire codes. Due to the increased health and safety risks extraction shall only occur in commercial and manufacturing zoned areas. Cannabis manufacturers must obtain a permit from the Fire Marshall prior to commencing cannabis manufacturing.
- E. For purposes of this section, “chemical extraction” means the process of separating resins, tetrahydrocannabinols, or other substances from cannabis. “Chemical synthesis” means the

artificial execution of useful chemical reactions to obtain one or several products that undergo a transformation when subjected to certain conditions.

- F. Cannabis manufacturers may only operate within the hours of 9AM and 7PM Monday through Saturday and 12PM and 7PM on Sundays.
- G. Cannabis manufacturers other than a microbusiness may only operate within M-1 Zones or Commercial C2 Zones if approved for a conditional use variance.
- H. A microbusiness may request a variance to operate in a Commercial C2 Zone pursuant to zoning and commission approval via a quasi-judicial hearing.
- I. Cannabis manufacturers must utilize odor mitigation technology or techniques to mitigate the odor created by cannabis.
- J. Mixing or cutting cannabis with any other controlled substance is not allowed or permitted.

SECTION 14: LOCATION OF CANNABIS CONSUMPTION AREAS

No cannabis consumption areas are allowed in the jurisdictional area of the Town.

SECTION 15: OPERATIONAL REQUIREMENTS

- A. Cannabis establishments may not display products, engage consumers, or consummate sales outside of a fully enclosed building or structure.
- B. It shall be unlawful to use, sell, cultivate, produce, or distribute cannabis and cannabis related products on public property within the jurisdictional area of the Town of Edgewood.
- C. Cannabis establishments shall not allow or permit a person to consume cannabis onsite or on adjacent grounds.
- D. Cannabis establishments must maintain a distance of one thousand (1,000) feet between locations as measured from establishment entry point to establishment entry point, except for any established cannabis business operating and meeting all the requirements as of the date of the enactment of this ordinance. An entry point being any point of entry or egress from said establishment.
- E. Cannabis establishments shall provide and maintain at each premises a digital video surveillance system with a minimum camera resolution of 1280 x 720 pixels. The digital video surveillance system shall further comply with the following requirements:
 - 1) the digital video surveillance system shall at all times be able to effectively and clearly record images of the area under surveillance;

- 2) each camera shall be permanently mounted and in a fixed location; and
- 3) cameras shall be placed in a location that allows the camera to clearly record activity occurring on the licensed premises that digital video surveillance is required and shall provide a clear and certain identification of any person and activities in those areas.

Areas of digital video surveillance: Areas that shall be recorded on the digital video surveillance system include the following:

- 1) areas where cannabis and cannabis products are cultivated, produced, manufactured, weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the licensed premises;
- 2) limited access areas;
- 3) areas storing a digital video surveillance system storage device;
- 4) entrances and exits to the licensed premises;
- 5) all point of sale (POS) locations to capture sale transactions; and
- 6) parking area for cannabis establishments.

Digital Video Surveillance Recording: Licensees shall comply with the following digital surveillance recording requirements:

- 1) cameras shall record continuously 24 hours per day, or may be motion activated, and at a minimum of 15 frames per second (FPS);
- 2) the physical media or storage device on which digital video surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft;
- 3) digital video surveillance recordings shall be kept for a minimum of 30 days and recordings of theft or security incidents as set forth in Subsection N of 16.8.2.8 NMAC shall be kept for a minimum of 12 months;
- 4) digital video surveillance recordings are subject to inspection by the division, and shall be kept in a manner that allows the division to view and obtain copies of the recordings at the licensed premises immediately upon request;
- 5) upon request, licensees shall send or otherwise provide copies of the recordings to the division within 48 hours;
- 6) recorded images shall clearly and accurately display the time and date of the recording; and
- 7) time shall be measured in accordance with the United States national institute standards and technology standards.

F. Cannabis establishments must provide for off-site disposal of cannabis products and other solid waste in compliance with state, federal, local law, and any other jurisdictional law such as EPA.

G. Cannabis establishments shall only provide curbside pick-up services for patrons with disabilities.

- H. Cannabis establishments shall not display or keep visible from outside the licensed establishment any cannabis products or paraphernalia.
- I. Operation of any cannabis establishments-retail, production, manufacturing, transportation, and disposal, shall have annual license renewal and review. In addition to the following:
 - 1) When relocating premises, a new application will be required.
 - 2) All owners and employees will be required to have background checks. Applications and employment shall be disqualified for any drug, weapons, or felony charges/convictions.

SECTION 16: CHANGES TO LICENSE

- A. No licensee shall make any of the following major changes without first obtaining the written approval of the Town.
 - 1) Any transfer of the license or any ownership interest in the licensee entity or license.
 - 2) Any change in location of the licensed premises.
 - 3) Any change in the licensee's principals.
 - 4) 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.
 - 5) Any material changes to the adjacent grounds, including but not limited to lighting, parking, and traffic flow.

SECTION 17: VIOLATION AND PENALTIES

- A. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture, store, or transport cannabis or cannabis products, if the person fails to meet all requirements in this ordinance, the Cannabis Regulation Act NMSA 1978 Sections 26-2 C-1 through 42, and the rules adopted by the Cannabis Control Division of RLD.
- B. The sale or transfer of homegrown or homemade cannabis and cannabis products without a valid license issued by the State of New Mexico is prohibited.
- C. An individual or business may be charged with multiple offenses for continuing violations of this ordinance. To that end, violations occurring on separate calendar days shall constitute separate offenses.
- D. It shall be unlawful to sell, serve, give away, dispose of, exchange, distribute, deliver, or to permit the sale of, service, gift, disposal, exchange, distribution, or delivery of cannabis or cannabis derivatives in any form to any person under the age of 21, unless a valid Medical Doctor's prescription has been issued.

- E. An individual or business may be charged with multiple fines or penalties, any violation of the Ordinance shall incur a fine of \$500 and/or imprisonment for a period of up to 90 days in jail per violation, and each day that a violation occurs shall be considered a separate offense. The Town reserves the right to terminate any Town-issued or Town-provided licenses, registrations, approvals, utilities, or other such matter upon a second violation of Town ordinances. Nothing herein shall prevent the Town from seeking injunctive relief.
- F. Actively using cannabis or evidence of use while operating a motor vehicle shall be considered the same pertaining to alcohol and open container laws pursuant to NMSA 1978 Section 66-8-102.

SECTION 18: 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, another Town ordinances, or New Mexico State 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 a quasi-judicial hearing scheduled for the Town Commission to consider the revocation or any other appropriate action involving the license.
- D. During the license revocation quasi-judicial hearing, the Town Commission 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 Commission 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.

SECTION 19: SEVERABILITY

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

SECTION 20: EFFECTIVE DATE

This Ordinance shall be in force and in effect after its adoption, approval, and publication as provided by law.

Federal law prohibits the legalization of cannabis to date, and this Ordinance was created solely in response to the passage of the New Mexico Cannabis Regulation Act, which legalizes the use, retail sale, cultivation, manufacture, production, and distribution of recreational cannabis in the State of New Mexico.

PASSED, APPROVED AND ADOPTED this 22nd day of MARCH, 2022.



Audrey J. Jaramillo, CMO, CPA, CFE, JM
Mayor

Attest:



Estefanie Muller, CMC Clerk-Treasurer

