VILLAGE OF CORRALES

STATE OF NEW MEXICO

# AN AMENDMENT TO ORDINANCE NO. 21-06

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RELATING TO CANNABIS AND CANNABIS PRODUCTS; PROHIBITING THE PRODUCTION, MANUFACTURE, AND RETAIL OF CANNABIS AND CANNABIS PRODUCTS IN THE A-1 AND A-2 ZONES OF THE VILLAGE; PROVIDING AN EXCEPTION FOR PERSONAL PRODUCTION OF CANNABIS UNDER THE LYNN AND ERIN COMPASSIONATE USE ACT AND THE CANNABIS REGULATION ACT.

**WHEREAS,** the Village of Corrales Comprehensive Land Use Plan (2009) currently addresses

the growth of cannabis pursuant to medical marijuana grown under the Lynn and Erin Compassionate

Use Act, and;

 **WHEREAS**, the Village of Corrales’ Comprehensive Plan’s Goal for commercial development is to encourage appropriate commercial and professional office development within the designated commercial zone and appropriate home occupancy businesses, and;

 **WHEREAS**, the Village of Corrales’ Comprehensive Plan states in policy 3.3.1 the Village should cooperate with the business community to help promote existing businesses and encourage new and appropriate commercial development within the commercial and professional office areas, and;

**WHEREAS**, the cultivation, manufacture, and distribution of cannabis and cannabis-derived products for medical use are authorized in the State of New Mexico under the Lynn and Erin Compassionate Use Act, Sections 26-2B-1 through 26-2B-7, NMSA 1978, notwithstanding that the cultivation, manufacture, distribution, and possession of cannabis remain illegal under the laws of the United States, and;

**WHEREAS,** the State of New Mexico passed the Cannabis Regulation Act (CRA) in April of

2021, providing for the legal use of cannabis and cannabis products by all individuals over the age of 21,

and;

WHEREAS, New Mexico State Statute under §26-2C-12 directs that local jurisdictions may “adopt time, place and manner rules that do not conflict with the Cannabis Regulation Act [Chapter 26, Article 2C NMSA 1978] or the Dee Johnson Clean Indoor Air Act [Chapter 24, Article 16 NMSA 1978], including rules that reasonably limit the density of licenses and operating times consistent with neighborhood uses”, and;

 **WHEREAS**, Section 18-27 of the Village Code states the primary purpose of land use and zoning restrictions as, “Its purpose is to promote the health, safety, and general welfare of the residents of the Village by controlling the use of land so that it is developed in harmony with existing uses,” and;

WHEREAS, environmental impacts of commercial cannabis activities are largely still unknown due to the status of cannabis as a Schedule I controlled substance under Federal law, and;

WHEREAS, the commercial production of cannabis has been linked to an increase of volatile organic compounds (VOCs) in ambient air, which may negatively impact the environment and human health, and;

**WHEREAS,** the Village finds it necessary to promulgate regulations that reasonably limit the

commercial production of cannabis and the manufacture of cannabis products to prevent adverse impacts to the health and welface of its citizens, as well as nuisances such as noxious odors, and;

**WHEREAS**, the Governing Body has been reliably informed that growing facilities for the commercial cultivation and harvesting of cannabis utilize intensive agricultural techniques, including drastically increased energy consumption associated with artificial light and ventilation systems, which carry the potential for noise pollution, light pollution, the exhausting of potentially harmful VOCs, and other nuisances and;

**WHEREAS**, the Manufacture of cannabis or cannabis products often utilizes volatile substances such as hydrocarbon-based solvents and ethyl alcohol, which carries a high risk of releasing VOCs into the environment greater than those of cannabis cultivation, and fire safety risks are inherent with the handling of any volatile or flammable substance, and;

**WHEREAS**, to protect the health, welfare, and safety of the residents of the Village, the Governing Body finds that the commercial production, manufacture, and retail of cannabis or cannabis products on lands in the A-1 and A-2 zones of the Village is incompatible with existing neighborhood uses, and;

WHEREAS, as per Village Code Section 18-28 (a) “any use not classified as a permissive use or a use-by review within a particular zone is hereby prohibited from that zone”.

**NOW, THEREFORE, BE IT ORDAINED** by the Village Council, the Governing Body of the

Village of Corrales, that:

**Section 14-116. Environmental Nuisances** *shall be amended as follows*:

A. Any owner or occupant planting or allowing to grow weeds and noxious vegetable growth on the owner's or occupant's lot or parcel of ground, or on the sidewalks and lawn-strips or land areas abutting such lot or parcel of ground. This shall not include any activity reasonably related to a permissive agricultural use as established in 18-33 through 18-38. Agricultural uses when reasonably conducted in accordance with common agricultural practices shall not constitute a Nuisance. An agricultural use negligently or illegally performed may constitute a Nuisance.

B. All unnecessary or unauthorized noises and annoying vibrations, including animal noise, excepting those reasonably related to permissive uses under 18-33 through 18-38.

C. All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches, except those reasonably related to permissive uses under 18-33 through 18-38.

 [1. To prevent and control nuisance odors, an odor control plan shall be submitted to the Village Administrator describing the odor(s), if any, originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises if any of the following occur:

 (a) If odorous contaminants are detected when one (1) volume of the odorous air has been diluted with seven (7) or more volumes of odor-free air, as measured by any instrument, device, or method designated by the Village to be used in the determination of the intensity of an odor and in the enforcement of Section 14-116.

 2. If the Village receives five (5) or more complaints from individuals representing separate households or businesses within the Village within a 30-day period relating to a single odor description, and the Village verifies the source of the odor. To be considered an odor complaint the Village must have a record of it, which must include the:

 (a) Name, address and phone number of complainant.

 (b) Time and date of call.

 (c) Description of odor nuisance, including estimated location or source of complaint, and if possible, prevailing wind or weather conditions observed.

 3. If any person engages in one (1) or more of the following activities:

 (a) Pet food manufacturing;

 (b) Cannabis production, processing, manufacturing, or consumption, as provided in Section 18-45

 (c) Rendering and meat byproduct processing;

 (d) Asphalt shingle and coating materials manufacturing;

 (e) Sewage treatment;

 (f) Wood preservation;

 (g) Any other activity determined by the Council through a rulemaking to cause, or be likely to cause, nuisance odors.]

D. The intentional application or unintentional drifting of pesticides, herbicides, other biocides, fertilizers, or other chemicals onto neighboring property.

## Section 18-29 of the Corrales Village Code. Definitions. Amended as follows:

*Cannabis Regulation Act* means New Mexico State Statutes Annotated Chapter 26 Sections 1 through 42 [[26-2C-1](https://nmonesource.com/nmos/nmsa/en/item/4355/index.do#!b/26-2C-1) to [26-2C-42](https://nmonesource.com/nmos/nmsa/en/item/4355/index.do#!b/26-2C-42) NMSA 1978] effective June 29, 2021.

Greenhouse means a completely enclosed structure whose structural members are made of pre­formed, rigid construction materials or a completely enclosed structure that protects horticultural products from all external elements where the growth environment is closely controlled. Greenhouse also means an accessory structure, with transparent or translucent roof and/or wall panels intended for the raising of plants or crops.

***Licensed premises* shall have the same definition as set forth in Section 26-2C-2(HH) of the Cannabis Regulation Act.**

***Warehouse* means a structure where raw materials or manufactured goods may be stored before their export or distribution for sale.**

(no amendments to this section hereafter)

## Section 18-33 of the Corrales Village Code. A-1 - Agricultural and rural residential zone. Amended as follows:

(2) *Permissive Uses*.

 d. Agricultural uses, including the planting, growing, and harvesting of crops for consumption provided that any cannabis-related agriculture is conducted in compliance with the Cannabis Regulation Act and other applicable state law, provided, however, that the commercial production, manufacture and retail sale of cannabis and cannabis products are prohibited in the A-1 zone and:

1. Any diseased, dead, or dying agricultural products be disposed of promptly and appropriately,
2. Agricultural activities reasonably conducted in accordance with common agricultural practices on the property do not create a nuisance as set forth in Sections 14-71 through 14- 116.
3. Any greenhouses on the property greater than 120 square feet require evidence of the State engineer's approval of the well and water usage for the quantity and type of crop(s) to be raised.
4. Drainage of agricultural wastewater shall be controlled to avoid pollution of irrigation ditches, ground water, and surrounding property

(no amendments to this section hereafter)

## Section 18-34 of the Corrales Village Code. A-2 - Agricultural and rural residential zone. Amended as follows:

(2) *Permissive Uses*

d. Agricultural uses, including the planting, growing, and harvesting of crops for consumption provided, however, that the commercial production, manufacture and retail sale of cannabis and cannabis products are prohibited in the A-2 zone and:

1. Any diseased, dead, or dying agricultural products be disposed of promptly and appropriately,
2. Agricultural activities reasonably conducted in accordance with common agricultural practices on the property do not create a nuisance as set forth in Sections 14-71 through 14- 116.
3. Any greenhouses on the property greater than 120 square feet require evidence of the State engineer's approval of the well and water usage for the quantity and type of crop(s) to be raised.
4. Drainage of agricultural wastewater shall be controlled to avoid pollution of irrigation ditches, ground water, and surrounding property

 (no amendments to this section hereafter)

**Section 18-45**(h) *shall be amended as follows:*

(h) Cannabis related activities, approval and permit required.

For purpose of this section, all measurements for the purpose of determining the location of a cannabis retail 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.

1. No person(s) or entity shall engage in the production, manufacture, or sale of cannabis or cannabis products in any zones without a current business registration and a valid Cannabis permit issued by the Village of Corrales, permitting the specific cannabis-related activity or activities sought to be permitted on the premises. Cannabis permits are issued to the applicant(s) and are not assignable or transferable. Compliance with this section does not alleviate the applicant(s) from requiring approval from the Planning Administrator for all other applicable sections of 18-45.

1. Application and fee. Anyone wishing to conduct cannabis-related activity must submit a completed application. The application shall be returned to the Administrator accompanied by the appropriate application fee for the use(s) to be permitted, and must show, at a minimum:

(a) the cannabis-related activity or activities are appropriately licensed by the State Regulation and Licensing Department pursuant to the Cannabis Regulation Act.

(b) the cannabis retailer, cannabis consumption area, or cannabis courier facility to be permitted may not be located within 300 feet of a school or daycare center in existence at the time a permit was sought.

(c) the cannabis retailer and cannabis consumption area seeking a permit may not be located within 200 feet of another cannabis retailer or cannabis consumption area in existence at the time a permit was sought.

(d) a site plan, including all greenhouse(s) proposed for the growth of cannabis and any accessory structure(s) located on the premises.

(e) valid proof of identity of the person(s) seeking the permit, indicating they are at least 21 years of age.

(f) proof of ownership or legal occupancy of the premises to be permitted, including an affidavit from the owner of the property that the applicant has permission to conduct cannabis-related activity on the premises if the property is not owned by the applicant.

(g) a valid New Mexico gross receipts tax number

(h) the name, mailing address, email address, and contact phone numbers (including 24-hour emergency contact numbers) of the owner of the property for which the permit will be issued.

(i) The name, mailing address, email address, and contact phone numbers (including 24-hour emergency contact numbers) of the applicant, if different than the owner of the property.

(j) all other legal requirements as provided for according to the regulations set forth by the Regulation and Licensing Division pertaining to cannabis and cannabis related activity

 (3) Compliance with 18-45[(h)(3)](a) through 18-45[(h)(3)](d) required. Any cannabis establishment seeking to construct or occupy a building or structure requiring a site development plan pursuant to 18-45[(h)(3)](a)-(d) of the Village Code must provide documentation of Site Plan approval at the time of permit application.

 [(a) All cannabis establishments shall be equipped with odor control filtration and ventilation system(s) based on the current industry-specific best control technologies. No operable windows or exhaust vents shall be located on any building facade. Exhaust vents on rooftops shall direct exhaust away from residential uses or zones. The building, or portion thereof, used for cannabis production, manufacture, retail, or consumption shall be designed or equipped to prevent detection of marijuana odors and other objectionable odors from the property line.

 (b) Greenhouses or other structures incidental to the production of cannabis or cannabis products [or manufacture of cannabis or cannabis products] shall [be ventilated in such a manner that no

 i.Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere

 ii. No odor from marijuana cultivation, processing, sale, storage or consumption can be detected by a person with an unimpaired and otherwise normal sense of smell at any adjoining use or adjoining property to the cannabis producer or cannabis manufacturer

 iii. ~~Activated carbon~~ [Odor] filtration systems shall be maintained regularly such that odor abatement remains effective.

 iv. Cannabis producers shall keep a maintenance record for their filtration system(s) which shall include, at a minimum: the filter(s) changed, date the filter change was conducted, and due date for next filter change.

 v. The exhaust system to control odor shall be designed by a licensed professional air quality/environmental engineer recognized by the State of New Mexico.]

 (c) Greenhouses, manufacturing facilities, or other structures incidental to the production of cannabis or cannabis products shall be equipped with noise buffering panels sufficient to reduce sound emissions below 85 decibels as measured from the property line.

 (d) Applicants must provide a valid permit from the Office of the State Engineer at the time of application certifying access to water rights sufficient to conduct the activity or activities for which the Village permit is sought.

 [4. Hours of Operation. No commercial cannabis producer, manufacturer, or courier shall be permitted to operate between the hours of 10pm and 8am the following day. No commercial cannabis retailer or consumption area shall be permitted to operate between the hours of 8pm and 10am the following day. ]

**SEVERABILITY CLAUSE:**Should any section, paragraph, clause, or provision of this Ordinance held to be invalid or unenforceable for any reason, the invalidity or unenforceabilty of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

**PASSED, APPROVED, AND ADOPTED by** the Governing Body of the Village of Corrales this 4th day of January, 2022.

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JoAnne D. Roake, Mayor

**ATTEST:**

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Melanie L. Romero, Village Clerk

(SEAL)