



ORDINANCE NO. 2021-4

AN ORDINANCE AMENDING ORDINANCE 2021-1, AN ORDINANCE REGULATING CANNABIS PRODUCTION, CANNABIS MANUFACTURING, CANNABIS RETAILING AND OTHER CANNABIS-RELATED ACTIVITIES CLARIFYING THE REQUIREMENTS FOR CANNABIS MANUFACTURING

WHEREAS, the Taos County Board of County Commissioners is the duly authorized governing body of Taos County, a political subdivision of the State of New Mexico; and

WHEREAS, §4-37-1 through §4-37-9, NMSA 1978 granted power to counties to regulate as necessary and proper to provide for the safety, health, and welfare of their inhabitants; and

WHEREAS, the Taos County Board of County Commissioners recognizes the potential for the Cannabis industry to increase revenue for the county; and

WHEREAS, increased revenue necessitates increased traffic in areas where Cannabis businesses shall be established; and

WHEREAS, cannabis remains a controlled substance with the potential for misuse; and

WHEREAS, the Taos County Board of County Commissioners recognizes these factors enhance the risk of harm to their citizens,

WHEREAS, the Taos County Board of County Commissioners finds it to be in the best interest of the residents of Taos County to amend the Land Use Regulations to permit Cannabis activity within specific parameters as set forth below.

IT IS HEREBY ORDAINED, by the Board of County Commissioners of the County of Taos that the Taos County Land Use Regulations Ordinance 2018-02 is amended as follows:

Amending Section 2.1.2 within Article II, Section 4.1.1 within Article IV and creating Section 4.18 within Article IV of the Taos County Land Use Regulations, titled “Commercial Cannabis Activity Application Requirements and Performance Standards” which shall read as follows:

Section 2.1.2. *is amended as follows:*

AGRICULTURE – The production, storage, keeping, harvesting, grading, packaging, processing, boarding or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy

products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental, cannabis, hemp, and greenhouse products; or lands devoted to a soil conservation or forestry management program.

AGRO-INDUSTRIAL – Land use activities combining agricultural and industrial uses, where the primary purpose of the activity is not the growing or raising of food, but the fattening, slaughter, commercial storage or processing of agricultural products. This definition also includes Commercial Cannabis Activity as defined in Article IV Section 4.18.1.

FACILITIES FOR RELIGIOUS WORSHIP AND COMMUNITY CENTERS - The Facilities for Religious Worship and Community Centers use type consists of community meeting and cultural facilities; meeting, athletic, recreational, or social facilities of a private fraternal or benevolent organization; and facilities for religious worship with incidental educational or residential use. Uses include fraternal lodges, meeting halls, community centers, libraries, museums, churches, mosques, synagogues, monasteries, convents, and religious retreat centers.

Section 4.1.1(C) *is amended to add Section 4.1.1(C)(4), which reads as follows:*

4. Cannabis Producers growing between 201 and 1,000 mature cannabis plants and occupying less than 2/3 acres of total space as measured from the canopy of the cannabis plants on all levels or tiers of the total growing area.

Section 4.1.1(D) *is amended to add Section 4.1.1(D)(15)*

15. Cannabis Producers who grow 1,001 or more mature cannabis plants, but occupy fewer than 5 acres or less than 80,000 square feet as measured by the canopy of all plants.

Section 4.1.1(E) *is amended to add Section 4.1.1(E)(5)*

5. Cannabis Producers growing more than 80,000 square feet of cannabis, as measured from the canopy, including all floor levels, or occupy land of five (5) acres or more.

Section 4.18. Intent and Legislative Purpose. The New Mexico Legislature enacted the Cannabis Regulation Act (Section 26-2C-1 through 42 NMSA) in 2021, which legalized the recreational use of Cannabis in all Counties of New Mexico. Counties within New Mexico may regulate the time, place and manner of Cannabis production, manufacture, retail sale and commercial on-site consumption. Taos County recognizes commercial Cannabis enterprises offer the County the benefit of increased revenue through new businesses, heightened tourist activity, and the availability of recreational Cannabis to its citizens.

Taos County simultaneously has an obligation to protect its unique historic and multi-cultural environment, embodied in the numerous churches, community centers and schools within the County. Taos County finds that the purpose for a separation of Cannabis Businesses from schools and daycare facilities identified by Section 26-2C-12(A)(2)(d) of the Cannabis Regulation Act applies equally to other land uses in Taos County. Churches and community centers are designed and used for families and children every bit as much as schools and day care facilities and deserve the same separation from Cannabis businesses in Taos County.

Furthermore, cannabis remains a Schedule I substance under Federal law. Cannabis poses a risk to the health, welfare, and safety of the citizens of Taos County when mishandled or misused. As such, the production, manufacture, and consumption of cannabis and Cannabis products carries a potential for abuse and adverse effects which can be harmful to children. Accordingly, these regulations are hereby

enacted. These regulations were designed to balance the health, welfare, and safety of the citizens of Taos County and the allow the establishment of ample locations for commercial cannabis activities which adhere to the parameters set forth in these regulations.

Section 4.18.1. Definitions. All terms defined in the State of New Mexico Cannabis Regulation Act, as amended, are hereby adopted and incorporated herein. Definitions for terms used in this Ordinance are set forth below, but are not a complete list of definitions applicable to cannabis regulation.

- (A) 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 another product;
- (B) Cannabis Consumption Area – An area where cannabis products may be served and consumed;
- (C) Cannabis Courier – A person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;
- (D) 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;
- (E) Cannabis Manufacturer means 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;
- (F) Cannabis Manufacturer License Types are defined as follows:
 - (1) Class 1: A licensee that only packages or repackages cannabis products, or labels or relabels the cannabis product container;
 - (2) Class 2: 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 3: A licensee that conducts Class I and Class II activities, and extracts using mechanical methods or nonvolatile solvents; and

(4) Class 4: A licensee that conducts Class I, Class II, and Class III activities, and extracts using volatile solvents or supercritical CO₂.

(G) Cannabis Producer means 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; and

(5) includes Cannabis Microbusinesses, Small Cannabis Producers, Large Cannabis Producers, and Major Cannabis Producers.

(H) 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;

(I) 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;

(J) Cannabis Retailer means a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

(K) Commercial Cannabis Activity:

(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;

(L) Large Cannabis Producer means a Cannabis Producer who cultivates or produces cannabis with a canopy footprint of greater than 2/3 acres, or 29,050 square feet but fewer than 80,000 square feet, or who cultivates or produces cannabis within a structure or multiple structures that contain more than 1,001 mature cannabis plants.

(M) Major Cannabis Producer means a Cannabis Producer who cultivates or produces cannabis with a canopy footprint of 5 acres or more, or who cultivates or produces cannabis within a structure that contains more than 80,000 square feet of gross canopy space including all floor levels.

(N) 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;

(O) Homegrown or homemade means grown or made for purposes that are not dependent or conditioned upon the provision or receipt of financial consideration;

(P) 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 (200) total mature cannabis plants at any one time;
- (2) manufacture of cannabis products at a single licensed premises;
- (3) sales and transportation of only cannabis products produced or manufactured by that person;
- (4) operation of only one retail establishment; and
- (5) couriership of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

(Q) Manufacture means to compound, blend, extract, infuse, package or otherwise prepare a cannabis product;

(R) Small Cannabis Producer means a Cannabis Producer who cultivates or produces cannabis with a canopy footprint of $\frac{2}{3}$ or fewer acres, or who cultivates or produces cannabis within a structure or multiple structures that contain between 201 and 1,000 mature cannabis plants.

(S) 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 4.18.2. All Commercial Cannabis Activity shall require an Administrative Zoning Clearance Permit, Special Use Zoning Permit or Major Development Zoning Permit subject to the application requirements as set forth in Section 4.4.1 through 4.4.3, and 4.6.1 and 4.7.1 (Special Use permit) and 4.5.1 through 4.7.1 (Major Development permit) in addition to the requirements as set forth specific to the use sought to be permitted as described herein.

Cannabis Production under Sections 4.18.3 and 4.18.4 that has been determined to be in compliance with the criteria set forth in this Section, in addition to Section 4.4.2, is deemed by the Taos County Board of County Commissioners to meet the requirements for Development Compatibility Standards including Use and Visual Impact standards.

Section 4.18.3. Cannabis Producer Microbusinesses. Cannabis production of two hundred (200) or fewer mature plants shall be classified as a Cannabis Producer Microbusiness, provided that at no point the total canopy exceeds two thirds ($\frac{2}{3}$) of an acre. A Cannabis Producer Microbusiness is a permissive agricultural use, subject to building permit approval pursuant to Article III, Section 3.3.1 of the Land Use Regulations for indoor production, and all other applicable State and other laws regulating cannabis or cannabis products. Licensure by the State Regulation and Licensing Department is required.

Section 4.18.4. Small Cannabis Producers. Cannabis Producers who grow between 201 and 1,000 mature cannabis plants and maintain a canopy of two thirds ($\frac{2}{3}$) of an acre or less shall require an Administrative Zoning Clearance Permit pursuant to Article IV, Section 4 of the Land Use Regulations. If, at any point, the gross canopy footprint exceeds $\frac{2}{3}$ acre, inclusive of all floor levels or tiers of growing plants, the Producer shall seek a new zoning permit pursuant to Section 4.18.5 of this Article governing Large Cannabis Producers. Cannabis Producers who grow fewer than $\frac{2}{3}$ acre of cannabis shall not require a Special Use Zoning Permit or Major Development Zoning Permit. Licensure by the State

Regulation and Licensing Department is required.

For purposes of obtaining an Administrative Zoning Clearance Permit as a Cannabis Producer, the applicant shall provide:

- a. a certified survey plat depicting the proposed location for the growth of cannabis, including outdoor and indoor growing, that identifies the total area to be covered and establishing that the required setbacks have been met.
 1. Cannabis Producers seeking to grow cannabis outdoors must ensure the plants are located no fewer than fifty (50) feet from the property line on all sides.
 2. Cannabis Producers seeking to grow cannabis indoors must ensure that the building(s) or greenhouse(s) that will house plants are located no fewer than thirty (30) feet from the property line on all sides.
- b. A map that identifies two types of uses that a Cannabis Producer shall be separated from:
 1. facilities for religious worship and community centers and evidence that the nearest facilities for religious worship and community centers are greater than 300' from the perimeter of the property proposed for cannabis production.
 2. schools or daycare centers and evidence that the nearest school or daycare is greater than 300' from the perimeter of the property proposed for cannabis production.
- c. the document(s) provided to the Regulation and Licensing Division (RLD) which applicant(s) will utilize to apply for a producer's license pursuant to the Cannabis Regulation Act, or a copy of the actual license issued to the applicant by the RLD.
- d. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the information to be provided to RLD pursuant to their License application, the Planning Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.
- e. All other documentation required for an Administrative Zoning Permit as set forth in Article IV, Section 4.4.2.

Section 4.18.5. Large Cannabis Production. Cannabis Producers who grow 1,001 or more mature cannabis plants but occupy fewer than 5 acres or less than 80,000 square feet as measured by the canopy of all plants shall be considered a Large Cannabis Producer. Large Cannabis Producers must obtain a Special Use Permit as required by Sections 4.4, 4.6.1 and 4.7.1. In addition to the requirements set forth in Sections 4.4, 4.6.1 and 4.7.1, the applicant shall provide:

- a. a certified survey plat depicting the proposed location for the growth of cannabis, including outdoor and indoor growing, that identifies the total area to be covered and establishing that the required setbacks have been met:
 1. Large Cannabis Producers seeking to grow cannabis outdoors must ensure the

plants are located no fewer than fifty (50) feet from the property line on all sides.

2. Large Cannabis Producers seeking to grow cannabis indoors must ensure that the building(s) or greenhouse(s) that will house plants are located no fewer than thirty (30) feet from the property line on all sides.
- b. A map that identifies two types of uses that a Large Cannabis Producer shall be separated from:
 1. facilities for religious worship and community centers and evidence that the nearest facilities for religious worship and community centers are greater than 300' from the perimeter of the property proposed for cannabis production.
 2. schools or daycare centers and evidence that the nearest school or daycare is greater than 300' from the perimeter of the property proposed for cannabis production.
 - c. the document(s) provided to the Regulation and Licensing Division (RLD) which applicant(s) will utilize to apply for a producer's license pursuant to the Cannabis Regulation Act, or a copy of the actual license issued to the applicant by the RLD.
 - d. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the information to be provided to RLD pursuant to their License application, the Planning Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.

Section 4.18.6. Major Cannabis Production. This subsection shall apply to all applicants seeking a permit to allow for the growth of cannabis with a canopy footprint of greater than 80,000 square feet of gross space including all floor levels, or occupy land of five (5) acres or more. Any individual growing more than 80,000 square feet of cannabis, as measured from the canopy, including all floor levels, or on five (5) acres or more must obtain a permit pursuant to this subsection, in addition to a Major Development Permit as required in 4.5.1 through 4.7.1 of this Article. The applicant shall provide:

- a. a certified survey plat depicting the proposed location for the growth of cannabis, including outdoor and indoor growing, that identifies the total area to be covered and establishing that the required setbacks have been met.
 1. Major Cannabis Producers seeking to grow cannabis outdoors must ensure the plants are located no fewer than one hundred (100) feet from the property line on all sides.
 2. Major Cannabis Producers seeking to grow cannabis indoors must ensure that the building(s) or greenhouse(s) that will house plants are located no fewer than fifty (50) feet from the property line on all sides.
- b. A map that identifies two types of uses that a Major Cannabis Producer shall be separated

from:

1. facilities for religious worship and community centers and evidence that the nearest facilities for religious worship and community centers are greater than 300' from the perimeter of the property proposed for cannabis production.
 2. schools or daycare centers and evidence that the nearest school or daycare is greater than 300' from the perimeter of the property proposed for cannabis production.
- c. the document(s) provided to the Regulation and Licensing Division (RLD) which applicant(s) will utilize to apply for a producer's license pursuant to the Cannabis Regulation Act, or a copy of the actual license issued to the applicant by the RLD.
- d. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the information to be provided to RLD pursuant to their License application, the Planning Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.

Section 4.18.7. Cannabis Manufacturing. This subsection shall apply to all applicants seeking a permit under the requirements of Section 4.18.2 and either 4.18.8, 4.18.9, 4.18.10, or 4.18.11 to allow for the manufacture of cannabis products, packaging of cannabis products, and the purchase, acquisition, sale or transport of wholesale cannabis products to other cannabis establishments. No cannabis manufacturing activity may be conducted under a Home Occupation Permit.

Section 4.18.8. Class 1 Manufacturers that only package or repack cannabis products, or labels or relabels the cannabis product container. Class 1 cannabis manufacture is a permitted use in all non-residential zones, provided that the applicant completes a Class 1 Manufacture Zoning Clearance application, and provides or obtains a valid building permit for the structure to be utilized for the manufacture of cannabis or cannabis products. If, at any point, a Class 1 Manufacturer development uses five (5) acres of land; or contains more than 80,000 square feet of gross space (including all floor levels); or has a projected cost of more than five million dollars (\$5,000,000), excluding the undeveloped value of the land on which the development will take place, then the applicant will have to apply for a Major Development Zoning Permit pursuant to Article IV, Section 4.1.1E, and Section 4.5.

The applicant seeking a Class 1 Manufacture Zoning Clearance Permit shall provide:

- a. A map that identifies two types of uses that a Cannabis Manufacturer shall be separated from:
 1. facilities for religious worship and community centers and evidence that the nearest facilities for religious worship and community centers are greater than 300' from the perimeter of the property proposed for cannabis manufacture.
 2. schools or daycare centers and evidence that the nearest school or daycare is greater than 300' from the perimeter of the property proposed for cannabis manufacture.

- b. the document(s) to be provided to the Regulation and Licensing Division (RLD) which applicant(s) shall utilize to apply for a manufacturing license pursuant to the Cannabis Regulation Act, or a copy of the actual license issued to the applicant by the RLD.
- c. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the information to be provided to RLD pursuant to their License application, the Planning Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.

Section 4.18.9. Class 2 Manufacturers that conduct 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. Class 2 cannabis manufacture shall require an Administrative Zoning Clearance Permit pursuant to Article IV, Section 4.4 of the Land Use Regulations. If, at any point, a Class 2 Manufacturer development uses five (5) acres of land; or contains more than 80,000 square feet of gross space (including all floor levels); or has a projected cost of more than five million dollars (\$5,000,000), excluding the undeveloped value of the land on which the development will take place, then the applicant will have to apply for a Major Development Zoning Permit pursuant to Article IV, Section 4.1.1E, and Section 4.5.

The applicant seeking an Administrative Zoning Clearance Permit for a Class 2 Manufacturing license shall provide:

- a. A map that identifies two types of uses that a Cannabis Manufacturer shall be separated from:
 - 1. facilities for religious worship and community centers and evidence that the nearest facilities for religious worship and community centers are greater than 300' from the perimeter of the property proposed for cannabis manufacture.
 - 2. schools or daycare centers and evidence that the nearest school or daycare is greater than 300' from the perimeter of the property proposed for cannabis manufacture.
- b. the document(s) to be provided to the Regulation and Licensing Division (RLD) which applicant(s) shall utilize to apply for a manufacturing license pursuant to the Cannabis Regulation Act, or a copy of the actual license issued to the applicant by the RLD.
- c. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the information to be provided to RLD pursuant to their License application, the Planning Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.

Section 4.18.10 Class 3 Manufacturers that conducts Class I and Class II activities and extracts using mechanical methods or nonvolatile solvents. Class 3 cannabis manufacture shall require a Special Use Permit pursuant to Article IV, Section 4.4 of the Land Use Regulations. If, at any point, a Class 3 Manufacturer development uses five (5) acres of land; or contains more than 80,000 square feet of gross space (including all floor levels); or has a projected cost of more than five million dollars (\$5,000,000), excluding the undeveloped value of the land on which the development will take place, then the applicant will have to apply for a Major Development Zoning Permit pursuant to Article IV, Section 4.1.1E, and Section 4.5.

The applicant seeking a Special Use Zoning Clearance Permit for a Class 3 Manufacturing license shall provide:

- a. A map that identifies two types of uses that a Cannabis Manufacturer shall be separated from:
 1. facilities for religious worship and community centers and evidence that the nearest facilities for religious worship and community centers are greater than 300' from the perimeter of the property proposed for cannabis manufacture.
 2. schools or daycare centers and evidence that the nearest school or daycare is greater than 300' from the perimeter of the property proposed for cannabis manufacture.
- b. the document(s) to be provided to the Regulation and Licensing Division (RLD) which applicant(s) shall utilize to apply for a manufacturing license pursuant to the Cannabis Regulation Act, or a copy of the actual license issued to the applicant by the RLD.
- c. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the information to be provided to RLD pursuant to their License application, the Planning Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.

Section 4.18.11. Class 4 Manufacturers that conducts Class I, Class II and Class III activities, and extracts using volatile solvents or supercritical CO₂. Class 4 cannabis manufacture shall require a Special Use Permit pursuant to Article IV, Sections 4.4, 4.6.1 and 4.7.1 of the Land Use Regulations. If, at any point, a Class 1 Manufacturer development uses five (5) acres of land; or contains more than 80,000 square feet of gross space (including all floor levels); or has a projected cost of more than five million dollars (\$5,000,000), excluding the undeveloped value of the land on which the development will take place, then the applicant will have to apply for a Major Development Zoning Permit pursuant to Article IV, Section 4.1.1E, and Section 4.5.

The applicant seeking a Special Use Zoning Clearance Permit for a Class 4 Manufacturing license shall provide:

- a. A map that identifies two types of uses that a Cannabis Manufacturer shall be separated from:
 - 1. facilities for religious worship and community centers and evidence that the nearest facilities for religious worship and community centers are greater than 300' from the perimeter of the property proposed for cannabis manufacture.
 - 2. schools or daycare centers and evidence that the nearest school or daycare is greater than 300' from the perimeter of the property proposed for cannabis manufacture.
- b. the document(s) to be provided to the Regulation and Licensing Division (RLD) which applicant(s) shall utilize to apply for a manufacturing license pursuant to the Cannabis Regulation Act, or a copy of the actual license issued to the applicant by the RLD.
- c. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the information to be provided to RLD pursuant to their License application, the Planning Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.

Section 4.18.12. Cannabis Retailers. This subsection shall apply to all applicants seeking a permit to allow for the sale of cannabis and cannabis products to qualified patients, primary caregivers, reciprocal participants or directly to consumers. Cannabis consumption Rooms or Areas shall be allowed commercially only in a designated, co-located area of a Cannabis Retailer.

- a. The applicant shall provide:
 - 1. A map that identifies three types of uses that a Cannabis Retailer shall be separated from:
 - i. facilities for religious worship and community centers and evidence that the nearest facilities for religious worship and community centers are greater than 300' from the perimeter of the property proposed for cannabis retail.
 - ii. schools or daycare centers and evidence that the nearest school or daycare is greater than 300' from the perimeter of the property proposed for cannabis retail.
 - iii. other existing Cannabis Retail locations and evidence that the proposed cannabis retail location is not within six hundred (600) feet of any other cannabis retail location that was in operation at the time of the application submission to the County.
 - 2. The document(s) to be provided to the Regulation and Licensing Division (RLD) which applicant(s) shall utilize to apply for a cannabis retail license pursuant to

the Cannabis Regulation Act, or a copy of the actual license issued to the applicant by the RLD.

3. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding information to be provided to RLD pursuant to their License application, the Planning Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant.
- b. Cannabis Retailers shall have business hours no longer than 7:00 a.m. until 2:00 a.m. on the following day, Mon.-Sat., and 7:00 a.m. until midnight on Sunday.
 - c. Cannabis and cannabis products may be sold by a dispenser or a retailer in unbroken packages, for consumption off the licensed premises and not for resale from 7:00 a.m. until midnight.
 - d. Cannabis and cannabis products for consumption on the premises may be sold between 7:00 a.m. and 2:00 a.m. the following day.
 - e. A vertically integrated cannabis establishment or an integrated cannabis microbusiness must apply for a permit pursuant to the provisions of this subsection, provided the establishment or microbusiness intends to sell cannabis or cannabis products to qualified patients, caregivers, reciprocal patients, or consumers, regardless of an existing permit for cannabis production or cannabis manufacture.
 - f. The sale of homegrown or homemade cannabis and cannabis products without a valid license issued by the State Regulation and Licensing Department is prohibited.
 - g. The sale of cannabis or cannabis products grown as a permissive agricultural use without a valid license issued by the State Regulation and Licensing Department is prohibited.

Section 4.18.13. Cannabis Consumption Prohibited.

- a. The smoking of cannabis products is not allowed in public outdoor spaces or in public places.
- b. The smoking of cannabis products is only allowed within a licensed cannabis consumption area that occupies a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act, NMSA 1978, Chapter 24, Article 16.
- c. Nothing in this Section shall be interpreted to restrict the rights of an individual to smoke or otherwise consume cannabis or cannabis products on their own private property or within their own home.

Section 4.18.14. Provisions for Nuisance Abatement.

- a. Greenhouses or other structures incidental to the production of cannabis or cannabis products shall be equipped with an activated carbon filtration HVAC system appropriately sized to abate odor emissions.
 - i. Activated carbon filters shall be changed regularly such that odor abatement remains effective.
 - ii. Cannabis Producers, including Cannabis Producer Microbusinesses and Major Cannabis Producers, shall keep a maintenance record for their filtration system(s) which shall include, at a minimum: the specific filter(s) changed, the date the new filter(s) was installed, location of the filter(s) changed, and the estimated date of next service to the filtration system.
- b. Greenhouse, manufacturing facilities, or other structures incidental to the production of cannabis or cannabis products shall be equipped with noise buffering panels to reasonably reduce sound emissions.

Section 4.18.15. Severability. Should any provision of this Ordinance be found to be invalid or unenforceable by any court, such determination shall have no effect upon the validity or enforceability of any other portion of this Ordinance, and all such other portions shall continue in full force and effect.

AMENDMENT – All other provisions of the Land Use Regulations, Ordinance 2018-02, and all provisions of Ordinance 2021-1 not specifically amended herein shall remain in full force and effect.

EFFECTIVE DATE, this Ordinance shall take effect thirty (30) days after the Ordinance has been authenticated and recorded by the County Clerk pursuant to §47-6-10(K), NMSA 1978 as amended.

Signature Page to Follow

PASSED, APPROVED, AND ADOPTED, this _____ day of _____ 2021.

**BOARD OF COUNTY COMMISSIONERS
OF TAOS COUNTY, NEW MEXICO**

Candyce O'Donnell, Chairwoman

Attest:

Valerie Montoya, Taos County Clerk

Approved as to legal form:

Randy Autio, Contract County Attorney

VOTE RECORD:

| | | | | |
|--------------|-----|----|---------|--------|
| C. O'Donnell | Yes | No | Abstain | Absent |
| J. Fambro | Yes | No | Abstain | Absent |
| M. Gallegos | Yes | No | Abstain | Absent |
| A. Brush | Yes | No | Abstain | Absent |
| D. Vigil | Yes | No | Abstain | Absent |