

## ORDINANCE №. 2161-2021

### AN ORDINANCE RELATING TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO), AMENDING THE CANNABIS ORDINANCE IN SECTION 17.30.020.J

BE IT ORDAINED by the governing body, that is, the City Commission of the City of Clovis, New Mexico:

**SECTION ONE. RECITALS:** Pursuant to the guidelines espoused in the Cannabis Regulation Act (CRA), the City of Clovis recently adopted a Cannabis Ordinance imposing reasonable time, place and manner restrictions related to cannabis establishments. The City of Clovis was one of the first municipalities to adopt a cannabis ordinance following the newly enacted CRA. Since that time, additional information has been received regarding cannabis ordinance litigation and additional rules have been promulgated by the State of New Mexico, Regulation and Licensing Division. In order to minimize the risk of potential litigation, the City of Clovis desires to amend its Cannabis Ordinance. On December 8, 2021, the Planning and Zoning Commission unanimously recommended the adoption of the amendments contained herein.

#### **SECTION TWO. AMENDMENT OF EXISTING CODE SECTION.**

Section 17.30.020J is hereby amended as follows:

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Section 17.30.020.J Cannabis

##### 1. Generally

This section 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, manner and other restrictions on cannabis and cannabis establishments. The City of Clovis requires compliance with all applicable laws regarding the retail sale, cultivation and manufacturing of cannabis. Nothing in this Ordinance is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of cannabis or cannabis products in violation of any applicable law.

##### 2. Definitions

“Cannabis” means all parts of the plant of the genus cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin. Cannabis does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds to prepare topical or oral administrations, food, drink or other products.

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

“Cannabis Establishment” means an entity licensed by the Department to operate all of the following:

1. A single retail location at which the licensee may operate as a Cannabis Retail Business and sell cannabis and cannabis products directly to consumers or qualified patients.
2. A single off-site location at which the licensee may operate as a Cannabis Production Business and cultivate cannabis, possess unprocessed cannabis products and transport unprocessed cannabis products.
3. A single off-site location at which the licensee may operate as a Cannabis Manufacturing Business and manufacture cannabis and cannabis products, as well as package and store cannabis and cannabis products.

“Cannabis Manufacturer” means a licensed person that:

1. Manufactures cannabis products;
2. Packages cannabis products;
3. Has cannabis products tested by a cannabis testing laboratory; or
4. Purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments;

“Cannabis Manufacturing Business” means a business that is operated by a cannabis manufacturer and manufactures cannabis products, packages cannabis products or transports cannabis products.

“Cannabis Producer” means a person that is licensed to:

1. Cultivates cannabis plants;
2. Has unprocessed cannabis products tested by a cannabis testing laboratory;
3. Transports unprocessed cannabis products only to other cannabis establishments; or
4. Sells cannabis products wholesale.

“Cannabis Product” means cannabis concentrate and products that are composed of cannabis and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

“Cannabis Production Business” means a business that is operated by a cannabis producer and cultivates cannabis plants, possesses unprocessed cannabis plants or transports cannabis products.

"Cannabis Retail Business" means a single retail location at which the licensee may sell cannabis and cannabis products directly to consumers or qualified patients.

"Consume," "Consuming," and "Consumption" mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.

"Consumer" means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.

"Cultivate" and "Cultivation" mean to propagate, breed, grow, prepare and package marijuana.

"Department". means the State of New Mexico, Regulation and Licensing Division, or its successor agency.

"Extraction" means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.

"Manufacture" and "Manufacturing" mean to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

"Marijuana" is used interchangeably with "cannabis" and means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin. Marijuana does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds to prepare topical or oral administrations, food, drink or other products.

"Marijuana Testing Facility" means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

"Person" means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

"Process" and "Processing" means to harvest, dry, cure, trim or separate parts of the cannabis plant.

"Rehabilitation center" means a facility or center where individuals receive treatment for drug abuse, alcohol abuse or substance abuse.

### 3. Cannabis Establishments

a. Cannabis establishments shall not be permitted within 300ft of an existing school, pre-school, daycare, trade school, higher education facility, church, religious institution, place of worship, or rehabilitation center.

- b. Cannabis establishments shall not be permitted within 300ft of a playground, public park or athletic field.
- c. Cannabis establishments shall not be permitted within 500ft of any other existing cannabis establishment.
- e. Cannabis signage shall be allowed pursuant to Section 17.45.010, provided that any signage or advertising is not designed to appeal to persons under twenty-one years of age.
- f. There shall be no outdoor cultivation, processing, curing, drying, selling, storage, or other display of cannabis or cannabis products at a cannabis establishment.
- g. Cannabis establishments shall have recorded video surveillance covering all plants and the entire exterior. The recorded video surveillance shall be operating 24 hours a day, seven days a week. Records of surveillance shall be kept for a minimum of 30 days.
- h. For all cannabis establishments, the odor of cannabis must not be perceptible at any adjoining use of the property or on other parcels.
- i. Cannabis establishments must provide for off-site disposal of cannabis products and other solid waste in compliance with state, federal and local law.
- j. Cannabis establishments open to the public shall be allowed to operate only during the hours of 9:00 a.m. to 8:00 p.m. MDT.
- k. Cannabis establishments must operate within a fully enclosed and stationary building or structure, capable of being locked and secured.

4. Severability

If any provision, word or phrase contained in this ordinance is found to be unenforceable, invalid, or illegal by a court of competent jurisdiction, said provision, word or phrase shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be so amended it shall be stricken. If stricken, all other covenants, conditions, provisions, words and phrases of this ordinance shall remain in full force and effect.

PASSED, APPROVED AND ADOPTED this 10th day of February, 2022.

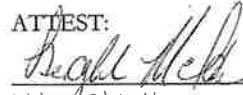
**CITY OF CLOVIS, NEW MEXICO**

By: \_\_\_\_\_

Michael Morris, Mayor

(SEAL)

ATTEST:

  
City Clerk