

IDO Amendments for Cannabis-related Uses

The following proposed IDO amendments relate to cannabis-related uses and are organized by topic. In instances where there are multiple amendments listed under one topic, those amendments may conflict with one another and reflect different policy preferences.

Please see individual amendments for further explanation.

Staff recommends considering and/or voting on the following amendments in the order they appear on this list to best keep track of potential conflicts.

Technical Amendments		
Amendment #	Policy Direction	Sponsor
B5	<ul style="list-style-type: none"> Clarifies existing language in the IDO about how odors are to be mitigated and moves the responsibility of enforcement from the Environmental Health Department to the Planning Department 	Davis
B6	<ul style="list-style-type: none"> Adds to the IDO the phrase “licensed premise”, and changes existing distances separations from 330 feet to 300 feet to be consistent with state law, and adds preschool to the definition of day care 	Davis
Definitions		
Amendment #	Policy Direction	Sponsor
B7	<ul style="list-style-type: none"> Adds a definition for on-site consumption 	Jones, by request
B8	<ul style="list-style-type: none"> Adds a definition for on-site consumption 	Davis
Distance Separation Requirements		
Amendment #	Policy Direction	Sponsor
B9	<ul style="list-style-type: none"> Would prohibit Cannabis Retail on lots abutting a Main Street corridor, within 300 feet of a residential zone district, group home, or religious institution. Would allow Cannabis Retail to occur within 300 feet of a lot containing a residential use in a mixed-use zone district with a Conditional Use Approval Would prohibit on-site consumption on lots abutting a Main Street corridor 	Jones, by request
B10	<ul style="list-style-type: none"> Adds a distance separation requirement between Cannabis Retail and religious institutions of 300 feet 	Borrego
B11	<ul style="list-style-type: none"> Adds a distance separation requirement between Cannabis Cultivation and Cannabis Manufacturing to a religious institution of 300 feet 	Borrego
B12	<ul style="list-style-type: none"> Adds a distance separation requirement between Cannabis Retail facilities of 600 feet 	Davis
B13	<ul style="list-style-type: none"> Adds a distance separation requirement between Cannabis Retail facilities of 1,000 feet 	Jones, by request
B14	<ul style="list-style-type: none"> Removes the distance separation requirement for Cannabis Cultivation and Cannabis Manufacturing to a residential zone district 	Davis

IDO Amendments for Cannabis-related Uses

B15	<ul style="list-style-type: none"> Would allow Cannabis Cultivation and Cannabis Manufacturing to occur within 300 feet of a residential zone district, school, or child day care facility with a Conditional Use approval. 	Davis
Sign Regulations		
Amendment #	Policy Direction	Sponsor
B16	<ul style="list-style-type: none"> Would restrict sign type, location, and content for all three cannabis uses (Retail, Cultivation, and Manufacturing) 	Jones, by request
Hours		
Amendment #	Policy Direction	Sponsor
B17	<ul style="list-style-type: none"> Would disallow customer visits and deliveries between 10pm and 7am for Cannabis Retail Would disallow customer visits and deliveries between 10pam and 7am for Cannabis Cultivation and Cannabis Manufacturing if located within 300 feet of a residential zone 	Jones, by request
B20	<ul style="list-style-type: none"> Would exempt integrated cannabis microbusinesses or cannabis producer microbusinesses from limitations on customer and/or delivery hours. <p><i>Note: This amendment was provided after the packet of amendments was finalized for the June 7th City Council meeting and was not included in the packet that was provided to the public prior to the Council Meeting.</i></p>	Borrego
Zoning		
Amendment #	Policy Direction	Sponsor
B18	<ul style="list-style-type: none"> Would allow Cannabis Manufacturing in more zones and adds a square foot limitation for Cannabis Manufacturing in Mixed-Use zones 	Davis
Other Regulations		
Amendment #	Policy Direction	Sponsor
B19	<ul style="list-style-type: none"> Adds ‘grandfathering’ language to specify that existing medical-cannabis facilities will still be legal for the purposes of the IDO if they choose to pursue recreational cannabis in the future 	Jones, by request

Council Amendment B5 – Cannabis Odors

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Davis

1. Page 181, revise Section 4-3(D)(35)(d), Cannabis Retail as follows:

(d) This use is conditional if cannabis will be consumed on-site. If cannabis is consumed on-site, an ~~[air filtration odor control]~~ plan approved by the City's ~~[Environmental Health]~~ [Planning] Department is required~~[- if smoking or vaping will occur on-site.]~~
2. Page 190, revise Section 4-3(E)(2)(e) Cannabis Cultivation as follows:

(e) An ~~[air filtration odor control]~~ plan approved by the City's ~~[Environmental Health]~~ [Planning] Department is required.]
3. Page 191, revise Section 4-3(E)(3)(e) Cannabis-derived Products Manufacturing as follows:

(e) An ~~[air filtration odor control]~~ plan approved by the City's ~~[Environmental Health]~~ [Planning] Department is required~~[- if the following activities will be occurring on the property: on-site oil activation, distillation, or extraction.]~~

Explanation: This amendment revises the review and approval department for the air filtration requirements in the IDO for all three cannabis uses in the IDO and renames it to an “odor control” plan. This amendment shifts the review and approval from Environmental Health to the Planning Department and provides more guidance on how odor is to be mitigated. The Planning Department’s Building and Safety division regularly reviews HVAC and other heating and cooling and air circulation mechanisms and are better suited to review an odor control plan. In researching this amendment, Denver’s model for odor control of cannabis activities was looked at. They require

Council Amendment B5 – Cannabis Odors

applicants to identify odor-creating activities and outlines how they will mitigate them. The mitigation options include engineered controls (such as specific types of HVAC systems) and administrative controls such as a commitment to staff training to ensure doors and windows stay closed during odor-emitting activities.

Council Amendment B6 – Cannabis Distances

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Davis

1. Page 181, revise Section 4-3(D)(35) Cannabis Retail as follows:

4-3(D)(35)(a) Cannabis retail is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities. For the purposes of the IDO, all measurements for Cannabis Retail shall be from the licensed premises as defined by the New Mexico Cannabis Regulation Act.

4-3(D)(35)(b) This use shall not include a storage or display area outside of fully enclosed portions of a building.

4-3(D)(35)(c) ~~[This use]~~ [A licensed premises, as defined by the New Mexico Cannabis Regulation Act.] is prohibited within ~~[330]~~ [300] feet of any school or child day care facility.

4-3(D)(35)(d) This use is conditional if cannabis will be consumed on-site. If cannabis is consumed on-site, an air filtration plan approved by the City's Environmental Health Department is required.

2. Page 190, revise Sections 4-3(E)(2)(a) and (b) Cannabis Cultivation as follows:

4-3(E)(2)(a) Cannabis cultivation is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities. For the purposes of the IDO, all measurements for Cannabis Cultivation shall be from the licensed premises as defined by the New Mexico Cannabis Regulation Act.

4-3(E)(2)(b) ~~[This use]~~ [A licensed premises, as defined by the New Mexico Cannabis Regulation Act.] is prohibited within ~~[330]~~ [300] feet of any Residential zone district, school, or child day care facility.

Council Amendment B6 – Cannabis Distances

3. Page 191, revise Section 4-3(E)(3) (a) and (b) Cannabis-derived Products Manufacturing as follows:

4-3(E)(2)(a) Cannabis-derived products manufacturing is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities. [For the purposes of the IDO, all measurements for Cannabis-derived Products Manufacturing shall be from the licensed premises as defined by the New Mexico Cannabis Regulation Act.]

4-3(E)(3)(b) ~~[This use]~~ [A licensed premises, as defined by the New Mexico Cannabis Regulation Act,] is prohibited within ~~[330]~~ [300] feet of any Residential zone district, school, or child day care facility.

4. Page 539, revise Section 7-1, Definitions, Adult or Child Day Care Facility to read as follows:

Adult or Child Day Care Facility

A facility other than an occupied residence that provides care for more than 12 individual adults or children during the day. [This use includes pre-schools]. This use does not include overnight care. See also *Family Home Day Care, Family Care Facility, Community Residential Facility, and Group Home*.

Explanation: This amendment is intended to bring the IDO regulations into conformity with the recently adopted New Mexico Cannabis Regulation Act. This amendment revises the separation distance from schools and daycares for all three cannabis uses in the IDO from 330 feet to 300 feet, in order to come into compliance with state law. 330 feet is a standard measurement used in the IDO, and was therefore the measurement used during the 2019 IDO annual update when the Cannabis Retail, Cannabis Cultivation, and Cannabis-derived Products Manufacturing uses were introduced to the IDO. However, the recently adopted New Mexico Cannabis Regulation Act prohibits the City from imposing a distance separation from schools and daycares in excess of 300 feet. The term “school” is not defined by the Act, but under the IDO it refers to public and private schools through high school. Accordingly, the distance separation would not apply to post-secondary schools like UNM/CNM. Additionally, this amendment makes reference to New Mexico Cannabis Regulation Act for the logistics of how to measure.

NOTE: This amendment was first made available to the public as A4 at LUPZ. The following revisions in **GREEN** have been made since the amendment was provided to the public for the May 12th LUPZ where this amendment was not moved or voted on:

- Striking “residential zone district” from the list of uses that the 300 foot separation distance can be applied to for Cannabis Cultivation and Cannabis-derived

Council Amendment B6 – Cannabis Distances

Products Manufacturing uses has been removed and is its own amendment, to be considered separately.

- Pre School has been added to the definition of day care. Pre-schools are not covered by the IDO school definition, but were generally considered part of the “Adult or Child Day Care” definition, however this was not explicit. This revision makes it explicit.

Council Amendment B7 – Cannabis Additional Restrictions,
On site Consumption

**CITY COUNCIL
of the
CITY OF ALBUQUERQUE**

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO O-21-60 and EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones, by request

1. Amend O-21-60, to add a new Section 2 and renumber accordingly:
[SECTION 2. On-site cannabis consumption is prohibited in all zones until regulations promulgated by the State become effective, in which case all other City provisions regarding on-site consumption not prohibited by state regulation will become effective.]

2. In Exhibit 1, Page 546, Section 7-1 Definitions, add the following to the Cannabis Definitions:

[On-site Consumption On-site consumption of cannabis includes the smoking, vaporizing, and ingesting of cannabis or cannabis products on a licensed premise. On-site consumption is considered part of Cannabis Retail.]

Explanation: This amendment is part of an amendment previously made available to the public as A19 at LUPZ. Due to the complexity of the cannabis regulations, this amendment has been broken into several amendments, each dealing with different aspects of this. This amendment defines on site consumption, to clarify that it is part of the Cannabis Retail use, and provides language about on-site consumption between the time the IDO update goes into effect and before the State regulations are in effect.

This amendment was drafted and sponsored at the request of the Mayor and the Administration.

Council Amendment B8 – Cannabis On Site Consumption Definition

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Davis

1. On page 546, Section 7-1 Definitions, add the following to the Cannabis Definitions:

[Commercial On-site Consumption Commercial on-site consumption of cannabis is the commercial cannabis activity of smoking, vaporizing, and ingesting of cannabis or cannabis products in a licensed cannabis consumption area. Commercial on-site consumption is considered part of Cannabis Retail.]

Explanation: This amendment adds a definition for Commercial On-Site Consumption and clarifies that the IDO is regulation the on-site consumption, as a use, in relation Cannabis Retail.

Council Amendment B9 – Cannabis Additional Restrictions

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones, by request

1. In Exhibit 1, Page 181, revise Section 4-3(D)(35)(c), Cannabis Retail as follows:

This use is prohibited [for a licensed premise whose lot is abutting a MS corridor, or] ~~[in MS areas or within 660 feet of MS areas, or]~~ within ~~[330]~~ [300] feet of any school or child day care facility ~~[, Residential zone district, or lot containing a residential use in any Mixed-use zone district, group home, or religious institution].~~ [For a licensed premises within 300 feet of a lot containing a residential use in any Mixed-use zone district, this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A).]

2. In Exhibit 1, Page 181, revise Section 4-3(D)(35)(d), Cannabis Retail as follows:

4-3(D)(35)(d) This use is conditional if cannabis will be consumed on-site. If cannabis is consumed on-site, an air filtration plan approved by the City's Environmental Health Department is required. [On-site cannabis consumption is prohibited in the following areas:
1. ~~In MS areas or within 660 feet of MS areas.]~~ [For a licensed premises whose lot is abutting a MS corridor.]

Explanation: This amendment is part of an amendment previously made available to the public as A19 at LUPZ. Due to the complexity of the cannabis regulations, this amendment has been broken into several amendments, each dealing with different aspects of this. This amendment focuses on distances between cannabis retail and certain sensitive uses, and prohibits on-site consumption in certain areas of the city. Text in **GREEN** indicates changes since this amendment was made available to the public on May 12th.

During the 2019 IDO Annual Update, the IDO created 3 cannabis related uses in anticipation of the legalization of recreational cannabis. Those three uses are, plus definitions:

- Cannabis Retail: A retail sales establishment licensed by the State to sell

Council Amendment B9 – Cannabis Additional Restrictions

cannabis for recreational consumption. Retail establishments selling cannabis solely for consumption by users with a medical card issued by the State are considered general retail and are not regulated by this definition. See also *General Retail*.

- Cannabis Cultivation: A facility in which cannabis is grown, harvested, dried, cured, or trimmed.
- Cannabis-derived Product Manufacturing: The processing, including but not limited to extraction, refinement, isolation, or packaging of a product other than cannabis itself, which contains or is derived from cannabis, including but not limited to concentrates, cannabis infusions, edible products, ointments, and tinctures, but excluding hemp. See also *Hemp*.

The IDO anticipates that a business may have one or more of these uses on the same site. For example a site may include both cultivation and manufacturing. Or manufacturing and retail. The IDO limits these three uses to the following zone districts:

- Cannabis Retail:
 - Permissive: MX-L, MX-M, MX-H, NR-C, NR-BP
 - Accessory: NR-LM, and NR-GM
- Cannabis Cultivation
 - Permissive: NR-C, NR-BP, NR-LM, and NR-GM
- Cannabis-derived Product Manufacturing
 - Permissive: NR-C, NR-BP, NR-LM, and NR-GM

This amendment makes reference to Main Street Corridors, as designated by the Comprehensive Plan. According to the ABC Comp Plan, as amended, Main Street Corridors are intended to be lively, highly walkable streets lined with local-serving businesses, modeled after the American tradition of Main Street as a place for living, working, and shopping. The Comprehensive Plan designates Central Avenue, and portions of 4th Street, Broadway, Bridge Blvd, and San Pedro as Main Street Corridors.

This amendment was drafted and sponsored at the request of the Mayor and the Administration.

Council Amendment B10 – Cannabis Retail Religious Institution

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Borrego

1. Page 181, revise Section 4-3(D)35)(c) Cannabis Retail as follows:

4-3(E)(2)(b) This use is prohibited within ~~[330]~~ [300] feet of any [Religious Institution,] school, or child day care facility.

Explanation: This amendment adds Religious Institution to the list of uses from which a Cannabis Retail use must be separated. During the 2019 IDO Annual Update, the IDO was revised to consider three cannabis related uses: retail, cultivation, and product manufacturing; in anticipation of the changes to the state laws on recreational cannabis use and sales. The 2019 IDO update did not consider a religious institution among the list of sensitive uses from which Cannabis Retail should be separated, and this amendment would add Religious Institution to the list. The IDO recognizes that there are some uses that are not appropriate in proximity to a religious institution. In the IDO the following uses have a separation distance from Religious Institutions: Adult Entertainment, Adult Retail, a Medical Clinic that dispenses methadone and or has a syringe exchange, Nicotine Retail, Heavy Manufacturing, Natural Resource Extraction. In addition the State Liquor Control Act requires certain distances from religious institutions for certain liquor licenses.

Council Amendment B11 – Cannabis Cultivation & Manufacturing Religious Institution

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Borrego

1. Page 190, revise Section 4-3(E)(2)(b) Cannabis Cultivation as follows:

4-3(E)(2)(b) This use is prohibited within ~~[330]~~ [300] feet of any [Religious Institution,] Residential zone district, school, or child day care facility.

2. Page 191, revise Section 4-3(E)(3)(b) Cannabis-derived Products Manufacturing as follows:

4-3(E)(3)(b) This use is prohibited within ~~[330]~~ [300] feet of any [Religious Institution,] Residential zone district, school, or child day care facility.

Explanation: This amendment adds Religious Institution to the list of uses from which a Cannabis Cultivation or Cannabis-derived Products Manufacturing use must be separated. During the 2019 IDO Annual Update, the IDO was revised to consider three cannabis related uses: retail, cultivation, and product manufacturing; in anticipation of the changes to the state laws on recreational cannabis use and sales. The 2019 IDO update did not consider a religious institution among the list of sensitive uses from which Cannabis Cultivation or Cannabis-derived Products Manufacturing should be separated, and this amendment would add Religious Institution to the list for both uses. The IDO recognizes that there are some uses that are not appropriate in proximity to a religious institution. In the IDO the following uses have a separation distance from Religious Institutions: Adult Entertainment, Adult Retail, Medical Clinic that dispenses methadone and or has a syringe exchange, Nicotine Retail, Heavy Manufacturing, Natural Resource Extraction. In addition the State Liquor Control Act requires certain distances from religious institutions for certain liquor licenses.

Note 1: Amendment B9 and Amendment B10 both add religious institution to the list of uses from which cannabis retail must be 300 feet away from.

Council Amendment B12 – Cannabis Retail 600 ft separation

**CITY COUNCIL
of the
CITY OF ALBUQUERQUE**

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO O-21-60 and EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Davis

1. Amend O-21-60, to add a new Section 2 and renumber accordingly:
[SECTION 2. Commercial on-site cannabis consumption is prohibited in all zones until regulations promulgated by the State become effective, in which case all other City provisions regarding on-site consumption not prohibited by state regulation will become effective.]
2. In Exhibit 1, page 181, Section 4-3(D)(35) Cannabis Retail add the following subsection and renumber if necessary:
[4-3(D)(35)(e) This use shall be conditional within 600 feet of another Cannabis Retail establishment. Nothing herein prohibits multiple licenses from operating from a single premise.]

Explanation: This amendment adds language to ensure that on-site consumption cannot occur prior to the State issuing regulations on the matter. This amendment also proposes that Cannabis Retail establishments be 600 feet apart, and if closer together seek a Conditional Use. The state regulations allows a municipality to consider the density of cannabis businesses. By requiring 600 feet between cannabis retail (and making it a Conditional Use if located closer together) this would allow cannabis retail approximately every two blocks. This amendment seeks to strike a balance between the economic development opportunities that recreational cannabis offers, while still ensuring that no area or areas, have significant clusters of businesses.

Council Amendment B13 – Cannabis Additional Restrictions, 1000 feet

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones, by request

1. In Exhibit 1, Page 181, Section 4-3(D)(35) Cannabis Retail add the following subsections:

[4-3(D)(35)(e) This use shall not be located within 1,000 feet of a licensed premises containing another Cannabis Retail, Adult Entertainment, or Adult Retail Uses. Nothing herein prohibits multiple licenses from operating from a single premise.]

Explanation: This amendment is part of an amendment previously made available to the public as A19 at LUPZ. Due to the complexity of the cannabis regulations, this amendment has been broken into several amendments, each dealing with different aspects of this. This amendment focuses on the distance between Cannabis Retail uses, proposing that Cannabis Retail be separated by 1,000 feet from other cannabis retail, as well as Adult Entertainment and Adult Retail. Text in **GREEN** indicates changes since this amendment was made available to the public on May 12th.

During the 2019 IDO Annual Update, the IDO created 3 cannabis related uses in anticipation of the legalization of recreational cannabis. Those three uses are, plus definitions:

- Cannabis Retail: A retail sales establishment licensed by the State to sell cannabis for recreational consumption. Retail establishments selling cannabis solely for consumption by users with a medical card issued by the State are considered general retail and are not regulated by this definition. See also *General Retail*.
- Cannabis Cultivation: A facility in which cannabis is grown, harvested, dried, cured, or trimmed.
- Cannabis-derived Product Manufacturing: The processing, including but not limited to extraction, refinement, isolation, or packaging of a product other than cannabis itself, which contains or is derived from cannabis, including but not

Council Amendment B13 – Cannabis Additional Restrictions, 1000 feet

limited to concentrates, cannabis infusions, edible products, ointments, and tinctures, but excluding hemp. See also *Hemp*.

The IDO anticipates that a business may have one or more of these uses on the same site. For example a site may include both cultivation and manufacturing. Or manufacturing and retail. The IDO limits these three uses to the following zone districts:

- Cannabis Retail:
 - Permissive: MX-L, MX-M, MX-H, NR-C, NR-BP
 - Accessory: NR-LM, and NR-GM
- Cannabis Cultivation
 - Permissive: NR-C, NR-BP, NR-LM, and NR-GM
- Cannabis-derived Product Manufacturing
 - Permissive: NR-C, NR-BP, NR-LM, and NR-GM

This amendment was drafted and sponsored at the request of the Mayor and the Administration.

Council Amendment B14 – Cannabis Distances Residential

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Davis

1. Page 190, revise Sections 4-3(E)(2)(b) Cannabis Cultivation as follows:

4-3(E)(2)(b) ~~[This use]~~ [A licensed premises, as defined by the New Mexico Cannabis Regulation Act,] is prohibited within ~~[330]~~ [300] feet of any ~~[Residential zone district,]~~ school~~[,]~~ or child day care facility.

2. Page 191, revise Section 4-3(E)(3)(b) Cannabis-derived Products Manufacturing as follows:

4-3(E)(3)(b) ~~[This use]~~ [A licensed premises, as defined by the New Mexico Cannabis Regulation Act,] is prohibited within ~~[330]~~ [300] feet of any ~~[Residential zone district,]~~ school~~[,]~~ or child day care facility.

Explanation: This amendment is intended to bring the IDO regulations into conformity with the recently adopted New Mexico Cannabis Regulation Act. Similar to Amendment B6 this amendment revises the separation distance from schools and daycares for cannabis cultivation and cannabis manufacturing uses in the IDO from 330 feet to 300 feet, in order to come into compliance with state law. Additionally, this amendment removes distance separation requirements between Cannabis Cultivation and Cannabis-derived Products Manufacturing and residential land uses. The recently adopted New Mexico Cannabis Regulation Act prohibits the City from imposing a distance separation from schools and daycares in excess of 300 feet.

Council Amendment B15 – Cannabis Cultivation & Manufacturing

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Davis

1. Page 190, revise Section 4-3(E)(2) as follows:

4-3(E)(2) Cannabis Cultivation

4-3(E)(2)(a) Cannabis cultivation is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.

4-3(E)(2)(b) ~~[This use is prohibited w]~~ [W]ithin ~~[330]~~ [300] feet of any Residential zone district, school, or child day care facility ~~[, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A)].~~

4-3(E)(2)(c) Except as specified in Subsection (d) below, all activities in this use must be conducted within the fully enclosed portions of a building unless a Conditional Use Approval is obtained pursuant to Subsection 14-16-6-6(A) to conduct specific activities outside of the fully enclosed portions of a building.

4-3(E)(2)(d) An incidental storage area is allowed outside of the fully enclosed portions of a building, but must be screened from view from each property line as described in Subsection 14-16-5-6(G) (Screening of Mechanical Equipment and Support Areas).

4-3(E)(2)(e) An air filtration plan approved by the City's Environmental Health Department is required.

2. Page 191, revise Section 4-3(E)(3) as follows:

4-3(E)(3) Cannabis-derived Products Manufacturing

4-3(E)(3)(a) Cannabis-derived products manufacturing is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.

Council Amendment B15 – Cannabis Cultivation & Manufacturing

4-3(E)(3)(b) ~~[This use is prohibited w]~~ [W]ithin ~~[330]~~ [300] feet of any Residential zone district, school, or child day care facility [, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A)].

4-3(E)(3)(c) Except as specified in Subsection (d) below, all activities in this use shall be conducted within the fully enclosed portions of a building unless a Conditional Use Approval is obtained pursuant to Subsection 14- 16-6-6(A) to conduct specific activities outside of the fully enclosed portions of a building.

4-3(E)(3)(d) An incidental storage area is allowed outside of the fully enclosed portions of a building but shall be screened from view from each property line as described in Subsection 14-16-5-6(G) (Screening of Mechanical Equipment and Support Areas).

4-3(E)(3)(e) An air filtration plan approved by the City Environmental Health Department is required.

Explanation: These changes to the use-specific standards for Cannabis Cultivation and Cannabis-derived Products Manufacturing would take both uses from prohibited within 330 feet of a residential zone, school, or child day care facility to a Conditional Use within 330 feet of a residential zone, school, or child day care facility. These two uses are permissive in only the NR-C, NR-BP, NR-LM, and NR-GM zone districts. They are prohibited in all other zone districts. The current prohibition within 330 feet of a residential zone, school, or child day care facility does not allow for consideration of operational scale, lot size, and other matters that may make this use have little to no impact on the adjacent uses. By changing the prohibition to a Conditional Use, the public and the City are able to consider the impact of a particular request in relation to a specific site. A Conditional Use requires a public hearing before the Zoning Hearing Examiner and is a decision that is appealable to the City Council. A Conditional Use must meet all of the following criteria:

6-6(A)(3)(a) It is consistent with the adopted ABC Comp Plan, as amended.

6-6(A)(3)(b) It complies with all applicable provisions of this IDO, including but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in a prior permit or approval affecting the property, or there is a condition of approval that any Variances or Waivers needed to comply with any of these provisions must be approved or the Conditional Use Approval will be invalidated pursuant to Subsection (2)(c)2 above.

6-6(A)(3)(c) It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.

6-6(A)(3)(d) It will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.

6-6(A)(3)(e) On a project site with existing uses, it will not increase nonresidential

Council Amendment B15 – Cannabis Cultivation & Manufacturing

activity within 300 feet in any direction of a lot in any Residential zone district between the hours of 10:00 P.M. and 6:00 A.M.

6-6(A)(3)(f) It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.

NOTE: this amendment was previously provided to the public at LUPZ but was not moved or voted on. This was Amendment A3, and has not been revised since LUPZ.

Council Amendment B16 – Cannabis Additional Restrictions Signage

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones, by request

1. In Exhibit 1, Page 181, Section 4-3(D)(35) Cannabis Retail add the following subsection and renumber accordingly:

4-3(D)(35)(g) Signage:

- i. Off Premise signs for cannabis retail establishments are prohibited
- ii. On Premise signs:
 - a. Are limited to wall signs, which may only include the business or tradename, the business location, and the days and hours of operation the establishment;
 - b. Shall cannot contain depictions of cannabis plants or products;
 - c. Shall not use movie or cartoon characters, or mimic any other product brand; and
 - d. Signs shall not use predatory marketing and advertising practices targeting minors.]

2. In Exhibit 1, Page 190, Section 4-3(E)(2) Cannabis Cultivation add the following subsection:

4-3(E)(2)(g) Signage:

- i. Off Premise signs for cannabis cultivation establishments are prohibited.
- ii. On Premise signs:
 - a. Are limited to wall signs, which may only include the business or tradename, the business location, and the days and hours of operation the establishment;
 - b. Shall cannot contain depictions of cannabis plants or products
 - c. Shall not use movie or cartoon characters, or mimic any

Council Amendment B16 – Cannabis Additional Restrictions Signage

- other product brand; and
- d. Signs shall not use predatory marketing and advertising practices targeting minors.]

3. In Exhibit 1, Page 191, revise Section 4-3(E)(3) (Cannabis-derived Products Manufacturing add the following subsection:

4-3(E)(3)(g) Signage:

- i. Off Premise signs for cannabis-derived product manufacturing establishments are prohibited.
- ii. On Premise signs:
 - a. Are limited to wall signs, which may only include the business or tradename, the business location, and the days and hours of operation the establishment;
 - b. Shall cannot contain depictions of cannabis plants or products;
 - c. Shall not use movie or cartoon characters, or mimic any other product brand; and
 - d. Signs shall not use predatory marketing and advertising practices targeting minors.]

Explanation: This amendment limits on premise signage for the three cannabis uses in the IDO. This text was originally part of the amendment A19 that was made available to the public at LUPZ, but was not moved or voted on. The text was moved into a stand-alone in order for it to be discussed separately from the other changes. The text in this amendment differs from what was presented in A19 in the following ways:

- contains minor revisions to the text for clarity and consistency , and
- strikes “Signs must contain text stating that cannabis products may be purchased or possessed only by persons 21 years of age or older.”

This amendment was drafted and sponsored at the request of the Mayor and the Administration.

Council Amendment B17 – Cannabis Additional Restrictions, Hours

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones, by request

1. In Exhibit 1, Page 181, Section 4-3(D)(35) Cannabis Retail add the following subsections:

[4-3(D)(35)(f) Customer visits and deliveries are prohibited between 10:00 P.M. and 7:00 A.M.]

2. In Exhibit 1, Page 190, Section 4-3(E)(2) Cannabis Cultivation add the following subsection:

[4-3(E)(2)(f) Customer visits and deliveries are prohibited between 10:00 P.M. and 7:00 A.M. for any Cannabis Cultivation facility located within 300 ft. of a Residential zone district.]

3. In Exhibit 1, Page 191, revise Section 4-3(E)(3) (Cannabis-derived Products Manufacturing add the following subsection:

[4-3(E)(3)(f) Customer visits and deliveries are prohibited between 10:00 P.M. and 7:00 A.M. for any Cannabis-derived Products Manufacturing facility located within 300 ft. of a Residential zone district]

Explanation: This amendment is part of an amendment previously made available to the public as A19 at LUPZ. Due to the complexity of the cannabis regulations, this amendment has been broken into several amendments, each dealing with different aspects of this. This amendment focuses on the hours of operation for Cannabis Retail, Cannabis Cultivation, and Cannabis-derived Product Manufacturing. Text in **GREEN** indicates changes since this amendment was made available to the public on May 12th.

Council Amendment B17 – Cannabis Additional Restrictions, Hours

During the 2019 IDO Annual Update, the IDO created 3 cannabis related uses in anticipation of the legalization of recreational cannabis. Those three uses are, plus definitions:

- Cannabis Retail: A retail sales establishment licensed by the State to sell cannabis for recreational consumption. Retail establishments selling cannabis solely for consumption by users with a medical card issued by the State are considered general retail and are not regulated by this definition. See also *General Retail*.
- Cannabis Cultivation: A facility in which cannabis is grown, harvested, dried, cured, or trimmed.
- Cannabis-derived Product Manufacturing: The processing, including but not limited to extraction, refinement, isolation, or packaging of a product other than cannabis itself, which contains or is derived from cannabis, including but not limited to concentrates, cannabis infusions, edible products, ointments, and tinctures, but excluding hemp. See also *Hemp*.

The IDO anticipates that a business may have one or more of these uses on the same site. For example a site may include both cultivation and manufacturing. Or manufacturing and retail. The IDO limits these three uses to the following zone districts:

- Cannabis Retail:
 - Permissive: MX-L, MX-M, MX-H, NR-C, NR-BP
 - Accessory: NR-LM, and NR-GM
- Cannabis Cultivation
 - Permissive: NR-C, NR-BP, NR-LM, and NR-GM
- Cannabis-derived Product Manufacturing
 - Permissive: NR-C, NR-BP, NR-LM, and NR-GM

This amendment was drafted and sponsored at the request of the Mayor and the Administration.

Council Amendment B18 – Cannabis Manufacturing Zoning

**CITY COUNCIL
of the
CITY OF ALBUQUERQUE**

June 7th, 2021

FLOOR AMENDMENT NO. _____ **TO** Exhibit 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Davis

1. Page 152, Table 4-2-1, for the Cannabis-derived Products Manufacturing line, add a “C” for MX-T, and a “P” to MX-L, MX-M, and MX-H.
2. Page 191, in Section 4-3(E)(3) Cannabis-derived Products Manufacturing, add a new (b) and renumber accordingly:

[4-3(E)(3)(b) If located in any Mixed-use zone district, this use shall not exceed 10,000 square feet of gross floor area, and all activities must be conducted within the fully enclosed portions of a building.]

Explanation: This amendment would expand Cannabis-derived Product Manufacturing to the MX-T zone district (as conditional) and the MX-L, MX-M, and MX-H zone districts (as permissive). This is intended to mirror the allowances for Artisan Manufacturing, in order to allow for small scale cannabis-derived product manufacturing. A Use Specific standard is proposed in the amendment that mirrors the scale and activity limitations of Artisan Manufacturing. It is anticipated that a significant portion of the economic development associated with the recent changes to allow recreational cannabis in New Mexico will come from the creation of cannabis-derived product manufacturing. The proposed changes would expand the ability to make these products to smaller spaces, in a similar way that Artisan Manufacturing is allowed throughout the city.

Council Amendment B19 – Cannabis Existing Businesses

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Jones, by request

1. In Exhibit 1, Page 181, Section 4-3(D)(35) Cannabis Retail add the following subsections:

[4-3(D)(35)(g) A Cannabis Retail establishment properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act, upon issuance of a commercial cannabis license pursuant to the Cannabis Regulation Act, but no later than April 1, 2022, is entitled to continued and uninterrupted operations of the licensed premises and may continue to operate and expand its Cannabis Retail use to include the sale of commercial cannabis with the appropriate license(s).]

2. In Exhibit 1, Page 190, Section 4-3(E)(2) Cannabis Cultivation add the following subsections:

[4-3(E)(2)(g) A Cannabis Cultivation establishment properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act, upon issuance of a commercial cannabis license pursuant to the Cannabis Regulation Act, but no later than April 1, 2022, is entitled to continued and uninterrupted operations of the licensed premises and may continue to operate its Cannabis Cultivation use with the appropriate cannabis producer license(s).]

3. In Exhibit 1, Page 191, revise Section 4-3(E)(3) (Cannabis-derived Products Manufacturing add the following subsections:

[4-3(E)(3)(g) A Cannabis-derived Products Manufacturing establishment properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act, upon issuance of a commercial cannabis license pursuant to the Cannabis Regulation Act, but no later than April 1, 2022, is entitled to continued and uninterrupted operations of the licensed premises and may continue to operate its Cannabis-derived Products Manufacturing use with the appropriate cannabis manufacturer license(s).]

Council Amendment B19 – Cannabis Existing Businesses

Explanation: This amendment adds a new section within the retail regulations to allow existing medical cannabis dispensaries to convert to recreational cannabis retail in their current location, regardless of distance separations that would otherwise be applicable.

During the 2019 IDO Annual Update, the IDO created 3 cannabis related uses in anticipation of the legalization of recreational cannabis. Those three uses are, plus definitions:

- Cannabis Retail: A retail sales establishment licensed by the State to sell cannabis for recreational consumption. Retail establishments selling cannabis solely for consumption by users with a medical card issued by the State are considered general retail and are not regulated by this definition. See also *General Retail*.
- Cannabis Cultivation: A facility in which cannabis is grown, harvested, dried, cured, or trimmed.
- Cannabis-derived Product Manufacturing: The processing, including but not limited to extraction, refinement, isolation, or packaging of a product other than cannabis itself, which contains or is derived from cannabis, including but not limited to concentrates, cannabis infusions, edible products, ointments, and tinctures, but excluding hemp. See also *Hemp*.

The IDO anticipates that a business may have one or more of these uses on the same site. For example a site may include both cultivation and manufacturing. Or manufacturing and retail. The IDO limits these three uses to the following zone districts:

- Cannabis Retail:
 - Permissive: MX-L, MX-M, MX-H, NR-C, NR-BP
 - Accessory: NR-LM, and NR-GM
- Cannabis Cultivation
 - Permissive: NR-C, NR-BP, NR-LM, and NR-GM
- Cannabis-derived Product Manufacturing
 - Permissive: NR-C, NR-BP, NR-LM, and NR-GM

NOTE: text in **GREEN** adds Cannabis Cultivation and Cannabis Manufacturing uses to the grandfathering. This text was added after the amendment was made available to the public on June 4th.

This amendment was drafted and sponsored at the request of the Mayor and the Administration.

Council Amendment B20 – Cannabis Additional Restrictions

CITY COUNCIL of the CITY OF ALBUQUERQUE

June 7th, 2021

FLOOR AMENDMENT NO. _____ TO EXHIBIT 1 to O-21-60

AMENDMENT SPONSORED BY COUNCILOR Borrego, by request

1. In Exhibit 1, Page 190, Section 4-3(E)(2) Cannabis Cultivation add the following subsections:
[4-3(E)(2)(f) Except for integrated cannabis microbusinesses or cannabis producer microbusinesses, customer visits and deliveries are prohibited between 10:00 P.M. and 7:00 A.M. for any cannabis cultivation facility located within 300 ft. of a Residential zone district.
2. In Exhibit 1, Page 191, revise Section 4-3(E)(3) (Cannabis-derived Products Manufacturing add the following subsections:
[4-3(E)(3)(f) Except for integrated cannabis microbusinesses or cannabis producer microbusinesses, customer visits and deliveries are prohibited between 10:00 P.M. and 7:00 A.M. for any Cannabis-derived Products Manufacturing facility located within 300 ft. of a Residential zone district.

Explanation: This amendment provides that integrated cannabis microbusinesses or cannabis producer microbusinesses, as those terms are defined in the Cannabis Regulation Act, may operate within 300 feet of a residential zone district between the hours of 10pm and 7am. This language would encourage a more equitable approach for small businesses trying to break into the industry. Per the Cannabis Regulation Act, equitable concerns include full participation in the cannabis industry by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy and to promote racial, ethnic, gender and geographic diversity among license applicants, licensees, and cannabis industry employees. The relaxing of hours of operation restrictions is important for start up small businesses who may be operating out of an existing facility after normal business hours and using the space and equipment that would otherwise be too expensive to purchase.

This amendment was drafted and sponsored at the request of the Mayor and the Administration.