

CITY OF AZTEC
Ordinance 2021-517

An Ordinance Relating to the Regulation of Cannabis and Cannabis Establishments in Accordance with the Cannabis Regulation Act; Setting Forth Definitions, Rules, and Regulations within Aztec, NM.

- WHEREAS,** the Cannabis Regulation Act (“CRA”), House Bill 2 of the 2021 regular legislative session, duly adopted and promulgated as Chapter 4, Laws of New Mexico 2021, provides for the regulation of cannabis and cannabis products throughout the State of New Mexico; and
- WHEREAS,** the Cannabis Regulation Act provides that local jurisdictions may adopt time, place, and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses; and
- WHEREAS,** the CRA decriminalizes the possession, use, production, transportation, and sale of commercial cannabis for nonmedical adult use and creates a statewide regulatory and taxation structure; and
- WHEREAS,** the CRA permits consumers to possess not more than six mature cannabis plants and six immature cannabis plants per person, with a household limit of twelve mature cannabis plants; and
- WHEREAS,** the CRA permits persons 21 years of age or older to purchase cannabis and cannabis products, including up to or greater than two ounces of cannabis flowers, sixteen grams of cannabis extract, or eight hundred milligrams of edible cannabis at any one time; and
- WHEREAS,** the CRA provides for local licensure of cannabis cultivation, production, manufacture and distribution facilities and their placement, hours of operation, and regulation in accordance with local zoning regulations; and
- WHEREAS,** the CRA further provides for reasonable local regulation of the time, place and manner of cannabis consumption and use; and
- WHEREAS,** the City Commission wishes to enact such controls and restrictions on the possession, use, cultivation, manufacture and sales of cannabis and cannabis-derived products, consistent with the provisions of the Cannabis Regulation Act, necessary and proper to protect and promote the health, safety, and welfare of the citizens of Aztec, New Mexico; and
- WHEREAS,** the City Commission, the governing body of the City of Aztec, New Mexico, finds that it is in the best interest of the City, its residents, citizens, and visitors that the distribution and use of cannabis and cannabis products should be regulated as provided herein, without prohibiting the production, distribution, and use of cannabis and cannabis products in the City of Aztec.
- WHEREAS,** the City Commission wishes to enact zoning districts for the permitted use of cannabis establishments within the City of Aztec.

WHEREAS, the City Commission wishes to enact land-use controls and regulations for cannabis establishments within the City of Aztec.

WHEREAS, the City Commission wishes to enact land-use controls and regulations for cannabis within the City of Aztec.

NOW, THEREFORE, be it ordained by the governing body of the City of Aztec, New Mexico, adopts the amending of Chapter 26 as attached.

PASSED, APPROVED, AND ADOPTED: by the Aztec Governing body on this _____, 2021.

Mayor Victor C. Snover

ATTEST:

Karla Saylor, City Clerk CMC

APPROVE AS TO FORM:

City Attorney

Advertised Date of Final Adoption: _____

Effective Date of Ordinance: _____

Chapter 26
LAND USE REGULATIONS

ARTICLE II. ZONE DISTRICT REGULATIONS

DIVISION 1. IN GENERAL

Sec. 26-2-15. Districts Established.

1. The City of Aztec is hereby divided into the following types of land development districts within the City limits, such types to be used in the designations as hereinafter specified, to carry out the provisions of this ordinance:
 - (1) A-1 Agricultural or Rural
 - (2) R-1 Single Family Dwelling
 - (3) R-2 Multiple Family Dwelling
 - (4) O-1 Office and Institutional
 - (5) C-1 Neighborhood Commercial and Limited Retail
 - (6) C-2 General Commercial and Wholesale
 - (7) M-1 Light Manufacturing
 - (8) M-2 Heavy Manufacturing
 - (9) MH Mobile Home District
 - (10) PUD Planned Unit Development

2. The designation of the various types of districts and the corresponding boundaries thereof are shown on the "Official District Map for the City of Aztec", which is kept in an up-to-date form in the City Administration Building. The following general rules and regulations shall apply to the use of the District Map:
 - (1) District Boundaries. The boundary of any district or districts shall be the property line, unless otherwise specifically stated in this regulation or shown on the Official Land Development Map. Questionable districts or district boundary lines shall be determined by the City Manager.

 - (2) Annexed Areas. All land that is to be annexed into the City of Aztec shall undergo public input in order to establish the boundaries of the districts to be applied to the annexed

lands. This process may or may not be concurrent with the annexation action. If not concurrent, the boundaries of the districts will be designated within ninety (90) days of annexation.

(Code 2007, 26-15)

Secs. 26-2-16 to 26-2-20. Reserved.

DIVISION 6. C-1 : LIMITED RETAIL / NEIGHBORHOOD COMMERCIAL DISTRICT

Sec. 26-2-61. In General.

This district is established as a mixed use neighborhood commercial district. An activity permissive in this district should attempt to locate in or near the City's "Central Business District". This district should contain the major bulk of the shopper's goods, specialty goods and professional services needed to satisfy the day-to-day requirements of the City's population. The district should also encourage in-fill housing, institutional uses, public buildings and spaces.

(Code 2007, 26-61)

Sec. 26-2-62. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Accessory Structures. Accessory structures including accessory living quarters which are units permitted on the same parcel of land or within the principal building with a conforming or non-conforming use, provided that such unit is not used as a commercial or industrial unit, that no other residential dwelling unit is located on the same parcel, and that detached units are located at least fifteen (15) feet from any other structure and is provided with water, sewer, and electrical service. Accessory Living quarters shall be permitted within the C-1 District but limited to the following:
 - (1) Accessory living quarters are secondary in use to the principal structure.
 - (2) No accessory building shall be used unless the principle building is being used.
 - (3) Accessory living quarters may be located within a second or third story of the primary use structure or the rear twenty-five percent (25%) of the primary structure.
 - (4) Accessory living quarters in the rear yard or behind the principle structure must be of a permanent nature, frame built with similar exterior construction materials as the principal structure.
2. Offices. Offices including clinics, medical or dental offices, professional offices, office building and office building groups that have compatible uses corresponding to high-density residential areas. Any use incidental to the office building or building group.
3. Hotel or Motel. Hotel or motel permitting any use incidental to a hotel or motel as regulated for offices in the preceding paragraph and provided further, that off-street parking is furnished at the rate of one (1) parking space for every motel or hotel room.

4. Institutions. This includes for human beings, sanitariums, libraries, museums, schools, orphanages, and homes for the aged and other similar institutional uses except disciplinary or mental institutions.
5. Retail and Service Establishments. This includes such facilities as a bank, barber shop, bakery, stationery store, book store, dry goods store, clothing store, tailor shop, millinery shop, drug store, laundry or dry cleaning, prescription store, medical & recreational cannabis dispensaries, gift shop, florist, furniture store, service station, building supplies, hardware, appliance, beauty shop, jewelry, package liquor store, notions or sundry store, photography, art supplies, radio or television shops, and other similar type establishments. Outdoor storage is not permitted in this district unless surrounded by a solid wall or fence between six to eight (6 to 8) feet in height.
6. Temporary Stands. Temporary stands are permitted provided that such stands shall be limited to a maximum period of sixty (60) days and shall be confined to the sale of Christmas trees, fireworks, seasonal fruits and vegetables, and other temporary or seasonal retail sales.
7. Studios. Studios may include photography, music or dance of a commercial nature, provided all musical activities are confined within the building or structure.
8. Mortuary.
(Ord. 2018-487, eff. 2019-Feb-19; Code 2007, 26-62)

Sec. 26-2-63. Height Regulations.

Any building, dwelling or structure shall not exceed a height equal to one and one-half (1-1/2) times the width of the widest street right-of-way upon which the property adjoins; however, where building or portion thereof is setback from the front lot line, said structure or portion thereof may be erected to an additional height equal to three (3) times such setback distances, and provided further, that any walls or fences shall be in compliance with regulations of the R-1 and R-2 Districts.

(Code 2007, 26-63)

Sec. 26-2-64. Area Regulations.

There are no lot size or area restrictions placed on C-1 District.

(Code 2007, 26-64)

Sec. 26-2-65. Setbacks Regulations.

1. Front Setback. No front yard required for non-residential buildings.
2. Side Setback. No side yard required for non-residential buildings except that on a lot abutting a residential district, there shall be a side yard of not less than fifteen (15) feet.
3. Rear Setback. No rear yard required except on a lot abutting a residential district, there shall be a rear yard of not less than thirty (30) feet.

(Code 2007, 26-65)

Sec. 26-2-66. Conditional Uses.

The following uses will be permitted in the C-1 District provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Nursery school operated within a structure that has the external appearance of a dwelling.
2. Public utility structure such as a transformer, switching, pumping, and similar technical installations essential to the operation of a public utility.
3. Real estate office in connection with a specific development providing it is of a temporary nature and is not to be used as a dwelling unit or living quarters during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended by the City Commission.
4. Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six (6) months, and further provided that it is limited to a period of one year.
5. Recreational facility (non-profit), such as community center, golf course, swimming pool, tennis club, provided it shall be located on an area of at least one acre.
6. Hospital or clinic, but not animal hospital or clinic, or mental hospital.
7. Boarding or lodging house.
8. Theaters and commercial auditorium.
9. Amusement centers, including dance halls, nightclubs, bowling alleys, billiard halls, boxing arenas, miniature golf course, games of skill and other similar activities.
10. Multiple Family Dwellings designed for two or more family units with the number of families in residence not exceeding the number of dwelling units provided. This may include apartments, duplex, townhouses and condominiums.
(Ord. 2018-468, eff. 2018-Mar-07; Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-66)

Sec. 26-2-67 to 26-2-70. Reserved.

DIVISION 7. C-2 : GENERAL COMMERCIAL AND WHOLESALE DISTRICT

Sec. 26-2-71. In General.

This district is established to permit the uses specified under the C-1 District, plus commercial activities of both retail and wholesale nature, designed to serve the community or tourists. This district includes those uses normally adjacent to a central business district, and of a magnitude not normally compatible with residential areas. Some minor industrial usage not associated with objectionable noise and activities are permitted.

(Code 2007, 26-71)

Sec. 26-2-72. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Accessory Structures. Accessory structures including accessory dwelling units which are units permitted on the same parcel of land or within the principal building with a conforming or non-conforming use, provided that such unit is not used as a commercial or industrial unit, that no other residential dwelling unit is located on the same parcel, and that detached units are located at least fifteen (15) feet from any other structure and is provided with water, sewer, and electrical service. and accessory dwelling units shall be permitted within the C-1 District but limited to the following:
 - (1) Accessory dwelling units are secondary in use to the principal structure.
 - (2) No accessory building shall be used unless the principle building is being used.
 - (3) Accessory dwelling units may be located within a second or third story of the primary use structure or the rear twenty-five percent (25%) of the primary structure.
 - (4) Accessory living quarters in the rear yard or behind the principle structure must be of a permanent nature, frame built with similar exterior construction materials as the principal structure.
2. Offices. Offices including clinics, medical or dental offices, professional offices, office building and office building groups that have compatible uses corresponding to high-density residential areas. Any use incidental to the office building or building group.
3. Hotel or Motel. Hotel or motel permitting any use incidental to a hotel or motel as regulated for offices in the preceding paragraph and provided further, that off-street parking is furnished at the rate of one (1) parking space for every motel or hotel room.

4. Institutions. This includes for human beings, sanitariums, libraries, museums, schools, orphanages, and homes for the aged and other similar institutional uses except disciplinary or mental institutions.
5. Retail and Service Establishments. This includes such facilities as a bank, barber shop, bakery, stationery store, book store, dry goods store, clothing store, tailor shop, millinery shop, drug store, laundry or dry cleaning, prescription store, medical & recreational cannabis dispensaries, gift shop, florist, furniture store, service station, building supplies, hardware, appliance, beauty shop, jewelry, package liquor store, notions or sundry store, photography, art supplies, radio or television shops, and other similar type establishments. Outdoor storage is not permitted in this district unless surrounded by a solid wall or fence between six to eight (6 to 8) feet in height.
6. Retail and Wholesale Stores, Businesses or Shops. These businesses allow for the manufacturing, compounding, processing, assembling or treating of products including such activities as carpentry, plumbing, sheet metal working, upholstering, sign painting, rubber or metal stamp manufacturing, interior decoration, catering, baking, jewelry or curio making, tin smithing, and printing provided such activities shall be conducted within an enclosed building having business, that the number of persons engaging in the manufacturing process or assembling shall not be more than ten (10), not including office, clerical or delivery personnel; and provided further, that any activities or product on such premises shall not be objectionable, due to odor, dust, smoke, noise, vibration or other cause.
7. Wholesale Facilities. Such facilities provided that a wall of at least seven (7) feet in height is surrounding any outdoor storage area shall be required adjacent to any residential area, more restrictive district, motel, tourist court, cafe, restaurant or outdoor recreation area which existed at the time the wholesale business is established.
8. Temporary Stands. Temporary stands are permitted provided that such stands shall be limited to a maximum period of sixty (60) days and shall be confined to the sale of Christmas trees, fireworks, seasonal fruits and vegetables, and other temporary retail sales.
9. Studios. Studios may including photography, music or dance of a commercial nature, provided all musical activities are confined within the building or structure.
10. Mortuary.
11. Amusement Enterprises. This can including such activities as in-door theater, billiard parlor, bowling alley, sports arena, dance hall, auditorium, miniature golf course, commercial swimming pool and other similar facilities, provided any exterior lighting shall be so arranged as not to reflect into any contiguous lower district.
12. Micro Commercial Cannabis Cultivation (up to 200 mature plants at one time) this includes the growing of commercial cannabis with the following setbacks and requirements located Sec. 26-3-203.
13. Automotive, Farm Implement or Trailer Sales. This is permitted provided that any exterior or outdoor area shall be surfaced with gravel, oil or other high type paving, that all repair of automobiles or trailers shall be conducted within a completely enclosed building, and provided further, that a solid fence or wall shall be maintained at a height of six to eight (6 to 8) feet around all outdoor storage areas including those where inoperative motor vehicles

are stored, and along contiguous lots having a more restrictive district, or a motel, restaurant, cafe or other tourist oriented business, or a mobile home park.
(Ord. 2018-487, eff. 2019-Feb-19; Code 2007, 26-72)

Sec. 26-2-76. Conditional Uses.

The following uses will be permitted in the C-2 District provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Nursery school operated within a structure that has the external appearance of a dwelling.
2. Public utility structure such as a transformer, switching, pumping, and similar technical installations essential to the operation of a public utility.
3. Real estate office in connection with a specific development providing it is of a temporary nature and is not to be used as a dwelling unit or dwelling units during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended by the City Commission.
4. Storage structure or yard for equipment, material, or activity incidental to a specific construction project, provided it is of a temporary nature and is moved after the specific construction project is completed or work on the project has been dormant for a period of six (6) months, and further provided that it is limited to a period of one year.
5. Recreational facility (non-profit), such as community center, golf course, swimming pool, tennis club, provided it shall be located on an area of at least one acre.
6. Hospital or clinic, but not animal hospital or clinic, or mental hospital.
7. Boarding or lodging house.
8. Private club or lodge, excepting those the chief activity of which is customarily carried on as a business.
9. Minor industrial activities including such items as feed or fuel storage and sales, contractors equipment, storage rental or sales, radio or television transmitters, tires recapping or re-treading, lumber yards, cleaning or molding mills, and other similar light manufacturing processes, enclosed within the building and that any objectionable noise or odor shall be confined to the premises and provided further that the same is not contrary to general City and State laws.
10. Automobile wrecking yard, provided all activities are conducted within an enclosed building or within an outdoor area enclosed by a solid fence, wall or hedge at least seven (7) feet in height, and that all wrecked automobile bodies shall be stored on the ground, and provided further, that such yard shall be at least one hundred fifty (150) feet from residential or 0-1 District, motel, restaurant or cafe, and provided further, that the same conforms to all City and State regulations.
11. Transportation terminal or trucks stop provided that suitable driveways and access locations are provided which will be acceptable to the Planning Administrator.

12. Commercial Cannabis Cultivation Producers (up to 8,000 mature plants at one time) this includes the growing of commercial cannabis with the following setbacks and requirements located Sec. 26-3-203
13. Manufacturing of Cannabis To compound, blend, extract, infuse, package or otherwise prepare a cannabis product, product using not using volatile solvents.
14. Cannabis Testing Laboratory A person that samples collects and tests cannabis products and transports cannabis products for testing. An establishment used to test cannabis products. This establishment may involve volatile solvents.
15. Printing, publishing, lithographing, blueprinting, Photostatting, and similar establishments.
(Ord. 2018-468, eff. 2018-Mar-07; Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-76)

Sec. 26-2-77 to 26-2-80. Reserved.

DIVISION 8. M-1 : LIGHT MANUFACTURING DISTRICT

Sec. 26-2-81. In General.

This district is regulated to permit the C-2 uses in addition to light manufacturing developments, but will exclude all residential uses excepting a accessory dwelling unit.
(Code 2007, 26-81)

Sec. 26-2-82. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Accessory Structures. Accessory structures including accessory living quarters which are units permitted on the same parcel of land with a conforming or non-conforming use, provided that such unit is not used as a commercial or industrial unit, that no other residential dwelling unit is located on the same parcel, and that detached units are located at least fifteen (15) feet from any other structure and is provided with water, sewer, and electrical service. Accessory Living quarters shall be permitted within the C-1 District but limited to the following:
 - (1) Accessory living quarters are secondary in use to the principal structure.
 - (2) No accessory building shall be used unless the principle building is being used.
 - (3) Accessory living quarters in the rear yard or behind the principle structure must be of a permanent nature, frame built with similar exterior construction materials as the principal structure.
2. Offices. Offices including clinics, medical or dental offices, professional offices, office building and office building groups that have compatible uses corresponding to high-density residential areas. Any use incidental to the office building or building group.
3. Hotel or Motel. Hotel or motel permitting any use incidental to a hotel or motel as regulated for offices in the preceding paragraph and provided further, that off-street parking is furnished at the rate of one (1) parking space for every motel or hotel room.
4. Institutions. This includes for human beings, sanitariums, libraries, museums, schools, orphanages, and homes for the aged and other similar institutional uses except disciplinary or mental institutions.

5. Retail and Service Establishments. This includes such facilities as a bank, barber shop, bakery, stationery store, book store, dry goods store, clothing store, tailor shop, millinery shop, drug store, laundry or dry cleaning, prescription store, medical cannabis dispensaries, gift shop, florist, furniture store, service station, building supplies, hardware, appliance, beauty shop, jewelry, package liquor store, notions or sundry store, photography, art supplies, radio or television shops, and other similar type establishments. Outdoor storage is not permitted in this district unless surrounded by a solid wall or fence between six to eight (6 to 8) feet in height.
6. Retail and Wholesale Stores, Businesses or Shops. These businesses allow for the manufacturing, compounding, processing, assembling or treating of products including such activities as carpentry, plumbing, sheet metal working, upholstering, sign painting, rubber or metal stamp manufacturing, interior decoration, catering, baking, jewelry or curio making, tinsmithing, and printing provided such activities shall be conducted within an enclosed building having business, that the number of persons engaging in the manufacturing process or assembling shall not be more than ten (10), not including office, clerical or delivery personnel; and provided further, that any activities or product on such premises shall not be objectionable, due to odor, dust, smoke, noise, vibration or other cause.
7. Wholesale Facilities. Such facilities provided that a wall of at least seven (7) feet in height is surrounding any outdoor storage area shall be required adjacent to any residential area, more restrictive district, motel, tourist court, cafe, restaurant or outdoor recreation area which existed at the time the wholesale business is established.
8. Temporary Stands. Temporary stands are permitted provided that such stands shall be limited to a maximum period of sixty (60) days and shall be confined to the sale of Christmas trees, fireworks, seasonal fruits and vegetables, and other temporary retail sales.
9. Studios. Studios may including photography, music or dance of a commercial nature, provided all musical activities are confined within the building or structure.
10. Mortuary.
11. Amusement Enterprises. This can including such activities as in-door theater, billiard parlor, bowling alley, sports arena, dance hall, auditorium, miniature golf course, commercial swimming pool and other similar facilities, provided any exterior lighting shall be so arranged as not to reflect into any contiguous lower district.
12. Automotive, Farm Implement or Trailer Sales. This is permitted provided that any exterior or outdoor area shall be surfaced with gravel, oil or other high type paving, that all repair of automobiles or trailers shall be conducted within a completely enclosed building, and provided further, that a solid fence or wall shall be maintained at a height of six to eight (6 to 8) feet around all outdoor storage areas including those where inoperative motor vehicles are stored, and along contiguous lots having a more restrictive district, or a motel, restaurant, cafe or other tourist oriented business, or a mobile home park.
13. Signs. Regulations on signs within this district are set forth in [Chapter 20 of the City Codes](#).
14. Radio or Television Transmission. Radio or television transmittal is allowed provided that no assembly hall; studio or other place of public assembly is allowed.

15. Garages and Repair Shops. Automotive and mechanical shops providing for the repair, maintenance or renovation of automobiles, equipment or machinery and including welding shops, machinery shops and other similar facilities.
16. Public Utility Stations. Providing for the use necessary for the transmission and manufacture of services and commodities by utility companies.
17. Petroleum and Gas. Oilfield service establishments and plants permitting service stations, bulk storage plants, liquefied petroleum products, and other combustible materials, provided that the precautions required by local, State and federal controls are followed in the installation of such facility.
18. Commercial Cannabis Cultivation Producers (up to 8,000 mature plants at one time) this includes the growing of commercial cannabis with the following setbacks and requirements located Sec. 26-3-203
19. Manufacturing of Cannabis To compound, blend, extract, infuse, package or otherwise prepare a cannabis product, product using not using volatile solvents.
20. Cannabis Testing Laboratory A person that samples collects and tests cannabis products and transports cannabis products for testing. An establishment used to test cannabis products. This establishment may involve volatile solvents.
21. Manufacturing. Permitting light or minor industrial activities including tire recapping or treading, foundries, experimental or testing laboratories, blacksmith and machine shops, mold mills, concrete or cement products manufacturing, gravel and sand processing or distribution, trucking and freight transportation terminals, wrecking yards and other similar activities provided that such uses be at least one hundred fifty (150) feet from any A-1, R-1, R-2 or O-1 District or from any existing meter, mobile home park, cafe or restaurant.
(Ord. 2018-487, eff. 2019-Feb-19; Code 2007, 26-82)

Sec. 26-2-83. Height Regulations.

Maximum height of thirty-five (35) feet or two and one-half (2-1/2) stories.
(Code 2007, 26-83)

Sec. 26-2-84. Area Regulations.

There are no area requirements in this District.
(Code 2007, 26-84)

Sec. 26-2-85. Setback Regulations.

Any building or structure shall not encroach on the right-of-way line of an established or future street line, whichever is more distant from the street center line extended. Access and circulation must be provided adjacent to all structures in this District for the movement of fire protection equipment.

1. Front Setback. A front yard setback of not less than thirty (30) feet is required.
2. Side Setback. No side yard required except on a lot abutting:
 - (1) A residential district (R-1, R-2, O-1, MH), side yard of not less than fifteen (15) feet;
 - (2) An agricultural-rural district (A-1), side yard not less than thirty (30) feet.

3. Rear Setback. A rear yard setback of not less than twenty (20) feet is required.
(Code 2007, 26-85)

Sec. 26-2-86. Conditional Uses.

The following uses will be permitted in the M-1 District provided that the use has been reviewed by the Community Development Department and approved by the City Commission:

1. Restaurants or Cafes. Restaurants or Cafes are permitted provided that such facilities are for the use of the people working or residing within the District.
2. Rendering Plants and Slaughter Houses. Provided that such activities are completely enclosed within a building or structure, that all objectionable noise and odor is confined to the premises, and that such activity shall be at least three hundred (300) feet from any dwelling or other structure having public use, and provided further, that the area of the lot shall be not less than five (5) acres in size.
3. Special Manufacturing. Special manufacturing processes permitting the manufacturing of paints, petroleum by-products, plastics, asphalt, and other similar activities, provided that, suitable precautions are made for the protection of surrounding property and the health and welfare of residents in the District.
(Ord. 2010-393, eff. 2011-Jan-14; Code 2007, 26-86)

Sec. 26-2-87 to 26-2-90. Reserved.

DIVISION 9. M-2 : HEAVY MANUFACTURING DISTRICT

Sec. 26-2-91. In General.

This district is established to permit all industrial uses and in general those uses which are obnoxious and offensive due to odor, noise, vibrations or other causes. No residential or community commercial uses are allowed in the district other than a watchman's quarters and accessory uses incidental to the principal land or building use.

(Code 2007, 26-91)

Sec. 26-2-92. Uses Permitted.

The following uses are permitted without prior approval of the Commission.

1. Accessory Structures. Accessory structures including accessory living quarters which are units permitted on the same parcel of land or within the principal building with a conforming or non-conforming use, provided that such unit is not used as a commercial or industrial unit, that no other residential dwelling unit is located on the same parcel, and that detached units are located at least fifteen (15) feet from any other structure and is provided with water, sewer, and electrical service. Accessory Living quarters shall be permitted within the C-1 District but limited to the following:
 - (1) Accessory living quarters are secondary in use to the principal structure.
 - (2) No accessory building shall be used unless the principle building is being used.
 - (3) Accessory living quarters may be located within a second or third story of the primary use structure or the rear twenty-five percent (25%) of the primary structure.
 - (4) Accessory living quarters in the rear yard or behind the principle structure must be of a permanent nature, frame built with similar exterior construction materials as the principal structure.

2. Offices. Offices including clinics, medical or dental offices, professional offices, office building and office building groups that have compatible uses corresponding to high-density residential areas. Any use incidental to the office building or building group.
3. Hotel or Motel. Hotel or motel permitting any use incidental to a hotel or motel as regulated for offices in the preceding paragraph and provided further, that off-street parking is furnished at the rate of one (1) parking space for every motel or hotel room.
4. Institutions. This includes for human beings, sanitariums, libraries, museums, schools, orphanages, and homes for the aged and other similar institutional uses except disciplinary or mental institutions.
5. Retail and Service Establishments. This includes such facilities as a bank, barber shop, bakery, stationery store, book store, dry goods store, clothing store, tailor shop, millinery shop, drug store, laundry or dry cleaning, prescription store, gift shop, florist, furniture store, service station, building supplies, hardware, appliance, beauty shop, jewelry, package liquor store, notions or sundry store, photography, art supplies, radio or television shops, and other similar type establishments. Outdoor storage is not permitted in this district unless surrounded by a solid wall or fence between six to eight (6 to 8) feet in height.
6. Retail and Wholesale Stores, Businesses or Shops. These businesses allow for the manufacturing, compounding, processing, assembling or treating of products including such activities as carpentry, plumbing, sheet metal working, upholstering, sign painting, rubber or metal stamp manufacturing, interior decoration, catering, baking, jewelry or curio making, tin smithing, and printing provided such activities shall be conducted within an enclosed building having business, that the number of persons engaging in the manufacturing process or assembling shall not be more than ten (10), not including office, clerical or delivery personnel; and provided further, that any activities or product on such premises shall not be objectionable, due to odor, dust, smoke, noise, vibration or other cause.
7. Wholesale Facilities. Such facilities provided that a wall of at least seven (7) feet in height is surrounding any outdoor storage area shall be required adjacent to any residential area, more restrictive district, motel, tourist court, cafe, restaurant or outdoor recreation area which existed at the time the wholesale business is established.
8. Temporary Stands. Temporary stands are permitted provided that such stands shall be limited to a maximum period of sixty (60) days and shall be confined to the sale of Christmas trees, fireworks, seasonal fruits and vegetables, and other temporary retail sales.
9. Studios. Studios may including photography, music or dance of a commercial nature, provided all musical activities are confined within the building or structure.
10. Mortuary.
11. Amusement Enterprises. This can including such activities as in-door theater, billiard parlor, bowling alley, sports arena, dance hall, auditorium, miniature golf course, commercial swimming pool and other similar facilities, provided any exterior lighting shall be so arranged as not to reflect into any contiguous lower district.
12. Automotive, Farm Implement or Trailer Sales. This is permitted provided that any exterior or outdoor area shall be surfaced with gravel, oil or other high type paving, that all repair of

automobiles or trailers shall be conducted within a completely enclosed building, and provided further, that a solid fence or wall shall be maintained at a height of six to eight (6 to 8) feet around all outdoor storage areas including those where inoperative motor vehicles are stored, and along contiguous lots having a more restrictive district, or a motel, restaurant, cafe or other tourist oriented business, or a mobile home park.

13. Radio or Television Transmission. Radio or television transmittal is allowed provided that no assembly hall; studio or other place of public assembly is allowed.
14. Garages and Repair Shops. Automotive and mechanical shops providing for the repair, maintenance or renovation of automobiles, equipment or machinery and including welding shops, machinery shops and other similar facilities.
15. Public Utility Stations. Providing for the use necessary for the transmission and manufacture of services and commodities by utility companies.
16. Petroleum and Gas. Oilfield service establishments and plants permitting service stations, bulk storage plants, liquefied petroleum products, and other combustible materials, provided that the precautions required by local, State and federal controls are followed in the installation of such facility.
17. Commercial Cannabis Cultivation (up to 8,000 mature plants at one time) this includes the growing of commercial cannabis with the following setbacks and requirements located Sec. 26-3-203
18. Manufacturing of Cannabis To compound, blend, extract, infuse, package or otherwise prepare a cannabis product, product using not using volatile solvents.
19. Cannabis Testing Laboratory A person that samples collects and tests cannabis products and transports cannabis products for testing. An establishment used to test cannabis products. This establishment may involve volatile solvents.
20. Manufacturing. Permitting light or minor industrial activities including tire recapping or treading, foundries, experimental or testing laboratories, blacksmith and machine shops, mold mills, concrete or cement products manufacturing, gravel and sand processing or distribution, trucking and freight transportation terminals, wrecking yards acid other similar activities provided that such uses be at least one hundred fifty (150) feet from any A-1, R-1, R-2 or O-1 District or from any existing meter, mobile home park, cafe or restaurant.
21. Industrial Activities. All industrial activities are permitted except those of a dangerous or highly objectionable nature, such as explosives, glue, tanneries, extensive slaughtering activities, and other similar facilities permitted only under Conditional Uses.
22. Places of Public Assembly. No development or use within this District shall be allowed which entail areas of public use or assembly,
(Code 2007, 26-92)

DIVISIONS 12 to 20. Reserved.

Secs. 26-2-121 to 26-2-209. Reserved.

DIVISION 22. NORTH MAIN OVERLAY (NMO)

Sec. 26-2-253. Conditional Uses

The following uses will be permitted in the N. Main Overlay (NMO) provided that the use has been reviewed the the Community Development Department and approved by the City Commission:

1. Nursery School
2. Public Utility structure
3. Recreational facility
4. Hospital or clinic
5. Boarding or lodging house
6. Multiple Family Dwellings
7. Senior living/assisted care
8. Institutions
9. Personal Services
10. Food Trucks
11. Retail Dispensaries (Medical & Recreational)
12. Any use not listed, needs City Commission Approval.
(Ord. 2018-469, eff. 2018-Apr-04)

ARTICLE III. SUPPLEMENTARY REGULATIONS

DIVISION 7. CANNABIS REGULATIONS

Sec. 26-3-200. In General.

Cannabis Regulation Act (“CRA”), House Bill 2 of the 2021 regular legislative session, duly adopted and promulgated as Chapter 4, Laws of New Mexico 2021, provides for the regulation of cannabis and cannabis products throughout the State of New Mexico. The Cannabis Regulation Act provides that local jurisdictions may adopt time, place, and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses.

Sec. 26-3-201. Scope and Purpose.

The purpose of this Ordinance is to protect and enhance the community's health, safety, and welfare. This Ordinance is enacted to provide for the licensure and reasonable regulation of facilities engaged in the cultivation, production, manufacture, and distribution of cannabis and cannabis products, consistent with the Cannabis Regulation Act, Chapter 2, Law of New Mexico 2021, the Lynn and Erin Compassionate Use Act (Chapter 26, Article 2B, NMSA 1978), and the Dee Johnson Clean Indoor Air Act, Sections 24-16-1 et seq., NMSA 1978. Nothing in this Ordinance is intended nor shall be deemed to promote or condone the cultivation, production, manufacture, transportation, distribution, sale, possession, or use of cannabis or cannabis products in violation of any law, whether federal, state, or local.

Sec. 26-3-202. Requirements.

1. All cannabis establishments require a conditional use permit in the N. Main Ave Overlay District.
2. The property upon which the cannabis establishment is located shall be a minimum of three hundred (300) feet from day care or school.
3. Every cannabis establishment shall be constructed and operated in such manner as to prevent the escape of smoke into any indoor public space, any public property of the Aztec, and any open space, and to prevent the visible smoking, ingestion or consumption of cannabis from any such public space, public property of the Aztec, or open space.
5. Each cannabis establishment is subject to the sign ordinance, per the City of Aztec
6. Retail sale, distribution, and consumption of cannabis, cannabis products and marijuana in cannabis establishments shall be limited to those hours during which the sale of alcoholic beverages at licensed liquor establishments for on-premises consumption is permitted under the statutes and regulations of the State of New Mexico.

Sec. 26-3-203. Prohibition.

1. Commercial cannabis establishments are prohibited in all residential zoning districts within Aztec, including the A-1 District and Planned Unit Development (PUD) for residential.
2. Cultivation of cannabis and manufacturing of cannabis/cannabidiol products for retail sales are not permitted as a Home Occupation.
3. The sale of cannabis products from Mobile Food Units is prohibited.
4. Cultivation of cannabis and manufacturing of cannabis/cannabidiol products for retail sales are not permitted as a Home Occupation.
5. Sale of cannabis products from Mobile Food Units are prohibited.
6. No cannabis consumption while operating a motor vehicle.
7. No cannabis consumption on public property, which includes, but not limited to parks, trails, recreation facilities, and public open space areas.
8. Hours of operation of commercial retail establishments to 7 AM – 12 AM (midnight).

Sec. 26-3-204. Permitted Zoning Districts.

	<u>Districts</u>
1. Retail Dispensaries (Medical & Recreational)	C-1 & C-2
2. Testing & Research Laboratories (no use of explosive solvents)	C-1 & C-2
3. Cannabis Couriers	C-1, C-2, M-1, M-2
4. Cultivation Microbusiness (up to 200 mature plants at a time)	C-2, M-1, M-2
5. Cultivation Producer (up to 8,000 mature plants at a time)	M-1, M-2, C-2 (with an approved Conditional Use Permit (CUP))

- | | |
|--------------------------------------------------------------------------------------------------------------------------|------------------------|
| 6. Manufacturing & Testing
(where the use does not entails explosive solvents) | C-2, M-1 & M-2 |
| 7. Manufacturing & Testing
(where the use entails explosive solvents) | M-1 & M-2 |
| 8. All commercial establishments of cannabis are prohibited within residential zoning districts, these zoning districts. | A-1, R-1, R-2, MH, PUD |
| 9. All cultivation, manufacturing or production of commercial cannabis establishments shall be regulated to: | C-2, M-1, M2 |

Sec 26-03-205. Requirements for Cultivation & Manufacturing.

If the cultivation, manufacturing or production facility is within setback area the following is required:

1. All cultivation and manufacturing subject to indoor uses, accompanied by the industry best practices for air filtration to mitigate odor.
2. Subject property is surrounded by a 6-foot perimeter wall or security fence with barbwire.

Sec 26-03-206. Setbacks.

A setback of 300-feet from a school or daycare center is required. The measurement is from property line to cannabis facility.

Sec 26-3-207. Restrictions.

1. All cannabis establishments require a conditional use permit in the N. Main Ave Overlay District.
2. The property upon which the cannabis establishment is located shall be a minimum of three hundred (300) feet from day care or school
3. Every cannabis establishment shall be constructed and operated in such manner as to prevent the escape of smoke into any indoor public space, any public property, and any open space, and to prevent the visible smoking, ingestion or consumption of cannabis from any such public space, public property of the Aztec, or open space.
4. Each cannabis establishment is subject to the sign ordinance, per the City of Aztec.
5. Retail sale, distribution, and consumption of cannabis, cannabis products and marijuana in cannabis establishments shall be limited to those hours during which the sale of alcoholic beverages at licensed liquor establishments for on-premises consumption is permitted under the statutes and regulations of the State of New Mexico.

Sec 26-3-208. Other Prohibitions.

1. Commercial cannabis establishments are prohibited in all residential zoning districts within Aztec, including the A-1 District and residential planned unit developments.
2. Cultivation of cannabis and manufacturing of cannabis/cannabidiol products for retail sales are not permitted as a Home Occupation.
3. The sale of cannabis products from Mobile Food Units is prohibited.

Sec 26-3-209. Plan Review.

Similar to all other businesses in Aztec, a cannabis establishment needs to submit plans, permits, applications, and fees. In addition, a complete set of detailed plans (architecture or engineering plans) is required for any additions or alterations of facilities.

All cultivation, production and manufacturing of cannabis is proposed to be inside a facility with industry-standard air filtration to mitigate odor. No commercial cultivation of cannabis is allowed outdoors. All cannabis cultivation, production, and manufacturing are to mitigate cannabis odors.

All cultivation, production and manufacturing facilities of cannabis need to be secured by 6-foot in height security fence. All cannabis cultivation, production, and manufacturing are not to be visible to the public.

Sec 26-03-210 Definitions.

Cannabis

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.

Cannabis Consumption Area

An area where cannabis products may be served and consumed.

Cannabis Control Division (CCD)

A division of the Regulation and Licensing Department created to implement the Cannabis Regulation Act

Cannabis Establishment

Is the meaning set forth in Section 2.E of the Cannabis Regulation Act.

Cannabis Manufacturing

The use that involves compounding, blending, extracting, infusing, packaging, or otherwise preparing a cannabis product using volatile solvents, e.g. butane, heptane, hexane, or propane.

A person that:

1. Manufactures cannabis products; or
2. Packages cannabis products; or
3. Has cannabis products tested by a cannabis testing laboratory; or

4. Purchases, acquires, sells or transport wholesale cannabis products to other cannabis establishments.

Cannabis Product

A product that is or that contains cannabis or cannabis extracts, including edible or topical products.

Cannabis Producer Microbusiness (up to 200 mature plants)

A business conducted by a person licensed to cultivate cannabis, provided that the person may not possess more than two hundred (200) total mature cannabis plants at any one time.

Cannabis Producer (up to 8,000 mature plants)

A business conducted by a person licensed to cultivate cannabis, provided that the person may not possess more than eight thousand hundred (8,000) total mature cannabis plants at any one time. A person that:

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

Cannabis Retailer

A person whose license from the cannabis control division of the regulation and licensing department allows the person to sell cannabis products to a person who purchases, acquires, possesses or uses the cannabis product for a purpose other than resale.

Cannabis Regulation Act

2021 Special Session, the New Mexico Legislature adopted the Cannabis Regulation Act (CRA), which legalized recreational cannabis use by adults twenty-one (21) years old and over.

Cannabis Research Laboratory

A facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

Cannabis Training and Education Program

A practical or academic curriculum offered by a New Mexico public post-secondary educational institution designed to prepare students for participation in the cannabis industry.

Cannabis Testing Laboratory

A person that samples collects and tests cannabis products and transports cannabis products for testing. An establishment used to test cannabis products. This establishment may or may not involve volatile solvents.

Child Care Facility

Any premises licensed under New Mexico Children, Youth and Families Department (CYFD), where children receive care, services, and supervision. A facility can be a center, home,

program or other site where children receive childcare, per the definition given by Title 8, Chapter 16, Part 2 NMAC.

Commercial Cannabis Retailer or Dispensary

A business conducted by a person that is licensed to sell cannabis products directly to consumers who are twenty-one years or older.

Consumer of Cannabis

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.

Consume, Consuming, or Consumption

The act of ingesting, inhaling, or otherwise introducing cannabis, cannabis product or marijuana into the human body.

Cultivation

Any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

Fence or Wall

A metal security fence or wall with the purpose of protection of assets, personnel or buildings.

Manufacture

To compound, blend, extract, infuse, package or otherwise prepare a cannabis product.

Indoor Public Place

The same meaning as prescribed in the Dee Johnson Clean Indoor Air Act, Section 24-16-3 NMSA 1978.

Open Space

Any public park, public sidewalk, public walkway, or public pedestrian thoroughfare.

Retail Establishment

A location at which cannabis products are sold to qualified patients, primary caregivers and reciprocal participants and directly to consumers.

School

Real property comprising of a public or private elementary, vocational, or secondary school or a public or private college, junior college or university.

Smoke or Smoking

The act of inhaling from, exhaling from, carrying or holding any lighted or heated cannabis, cannabis product or marijuana, whether natural or synthetic.

Vertically Integrated Cannabis Establishment

A person that is authorized to act as any of the following:

1. A cannabis courier; or

2. A cannabis manufacturer; or
3. A cannabis producer; or