

**CITY OF AZTEC**  
**Ordinance 2026-567**

**An Ordinance Amending Chapter 26, Article III. Supplementary Regulations, Division 7. Cannabis Regulations**

**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 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; and

**WHEREAS**, the City Commission has enacted zoning districts for the permitted use of cannabis establishments within the City of Aztec; and

**WHEREAS**, the City Commission wishes to enact land-use controls and regulations for cannabis establishments 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 \_\_\_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
Mayor, Michael A. Padilla Sr.

ATTEST:

\_\_\_\_\_  
Karla Sayler, City Clerk CMC

APPROVE AS TO FORM:

\_\_\_\_\_  
City Attorney

Advertised Date of Final Adoption: \_\_\_\_\_

Effective Date of Ordinance: \_\_\_\_\_

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## ARTICLE III. SUPPLEMENTARY REGULATIONS

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### 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.

(Ord. 2021-517, eff. 2021-Oct-20)

#### 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.

(Ord. 2021-517, eff. 2021-Oct-20)

#### 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, church, recreation facility, medical facility ~~or to another cannabis retailer~~. (Measurement. For the purposes of this Ordinance, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the cannabis establishment is located to the nearest point on any property line of a residence or cannabis establishment.)
3. ~~City of Aztec allows for only 1 cannabis retail establishment per 1,000 feet. households.~~
4. 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. Cannabis establishments shall allow local law enforcement to trespass any loiterers, vagrancy, panhandling or public nuisance on their property.

6. Each cannabis establishment is subject to the sign ordinance, per the City of Aztec
- ~~5. Retail sale, and distribution, and consumption of cannabis, of 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. (Ord. 2021-517, eff. 2021-Oct-20)~~
7. Any person engaged in commercial cannabis activities must first meet the requirements and obtain a City of Aztec Business License including a Fire Inspection, Certificate of Registration issued by the New Mexico Taxation and Revenue Department (TRD) confirming the applicant is registered with the TRD and has no unfiled tax returns due with respect to the cannabis excise tax or the gross receipts tax. The applicant must obtain a State of New Mexico License before engaging in any commercial cannabis activities. No Cannabis establishment shall be operated by anyone other than a licensee at a licensed premise, as provided in the Cannabis Regulation Act.

#### **Sec. 26-3-203. Prohibition.**

1. Commercial cannabis establishments are prohibited in all residential zoning districts within Aztec, including the A-1, ~~AR-1, R-1, R-2, O-1, MH~~ Districts 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 **cannabis** retail establishments to ~~7~~9 AM – ~~12~~ 8 PM (midnight).
9. **Cannabis retailers may only sell cannabis products for off-site consumption.**
10. **Cannabis shall be sold only in retail stores specifically for cannabis.**
11. **Cannabis shall not be sold in drive-thru or curbside. including any and all delivery services such as but not limited to DoorDash, Grubhub, Uber Eats.**
12. **Cannabis Courier is allowed for Commercial Transport with appropriate licensing.**
13. **Cannabis Courier is allowed for Medical Cannabis Courier License with appropriate licensing.**

(Ord. 2021-517, eff. 2021-Oct-20)

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

See Zoning Matrix

	<u>Districts</u>
1. <del>Retail Dispensaries (Medical &amp; Recreational)</del>	<del>C-1 &amp; C-2</del>
2. <del>Testing &amp; Research Laboratories (no use of explosive solvents)</del>	<del>C-1 &amp; C-2</del>
3. <del>Cannabis Couriers</del>	<del>C-1, C-2, M-1, M-2</del>
4. <del>Cultivation Microbusiness (up to 200 mature plants at a time)</del>	<del>C-2, M-1, M-2</del>
5. <del>Cultivation Producer (up to 8,000 mature plants at a time)</del>	<del>M-1, M-2, C-2 (with an approved Conditional Use Permit (CUP))</del>
6. <del>Manufacturing &amp; Testing (where the use does not entails explosive solvents)</del>	<del>C-2, M-1 &amp; M-2</del>
7. <del>Manufacturing &amp; Testing (where the use entails explosive solvents)</del>	<del>M-1 &amp; M-2</del>
8. <del>All commercial establishments of cannabis are prohibited within residential zoning districts, these zoning districts.</del>	<del>A-1, AR-1, R-1, R-2, MH, PUD</del>
9. <del>All cultivation, manufacturing or production of commercial cannabis establishments shall be regulated to:</del> (Ord. 2021-517, eff. 2021-Oct-20)	<del>C-2, M-1, M2</del>

**Sec. 26-3-205. 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, and must show an approved plan for sufficient water for cultivation.
2. ~~Subject property is surrounded by a 6-foot perimeter wall or security fence with barbwire.~~ All cultivation, production and manufacturing facilities of cannabis need to be secured by a locked 6-feet in height perimeter wall or locked security privacy fence with barbwire. Cannabis or cannabis products on the premises will not be visible from the public right of way, the unsecured areas surrounding the buildings on the premises, or the premises' main entrance and lobby.  
(Ord. 2021-517, eff. 2021-Oct-20)

**Sec. 26-3-206. ~~Setbacks.~~ Compliance with Laws.**

It is the responsibility of the owners and operators of the cannabis-related business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws,

and any regulations promulgated thereunder, and any specific additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis business permit.

~~A setback of 300 feet from a school, or daycare center, church, recreation facility, medical facility, or to another cannabis retailer is required. The measurement is from property line to cannabis facility.~~

~~(Ord. 2021-517, eff. 2021-Oct-20)~~

#### **Sec. 26-3-207. ~~Restrictions. Reserved~~**

- ~~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.~~  
~~(Ord. 2021-517, eff. 2021-Oct-20)~~

#### **Sec. 26-3-208. ~~Other Prohibitions. Reserved~~**

- ~~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.~~  
~~(Ord. 2021-517, eff. 2021-Oct-20)~~

#### **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 fence.~~ All cultivation, production and manufacturing facilities of cannabis need to be secured by a locked 6-foot in height perimeter wall or locked security privacy fence with **barbwire**. All cannabis cultivation, production, and manufacturing are not to be visible to the public.

(Ord. 2021-517, eff. 2021-Oct-20)

## **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 Courier**

A person or business licensed to transport cannabis products to qualified patients, primary caregivers, or reciprocal participants, or directly to consumers

- Commercial Transport: If you are a business involved in the cannabis industry (such as a producer, manufacturer, or retailer) and need to transport cannabis products between licensed premises, you are required to be licensed under the Cannabis Regulation Act or have authorized employees to do so.
- Delivery Services: To deliver cannabis products directly to consumers (qualified patients, primary caregivers, or adult-use consumers), you must hold a specific Cannabis Courier License. ~~NOTE: Not allowed in City of Aztec~~
- Medical Cannabis Courier License: If you are specifically involved in transporting usable cannabis for medical purposes, you would need a Medical Cannabis Courier License, issued by the New Mexico Department of Health

### **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

(Ord. 2021-517, eff. 2021-Oct-20)