



VILLAGE OF LOS LUNAS ORDINANCE 461

An Ordinance Establishing Recreational Cannabis Regulations, Amending Title 17 of the Los Lunas Zoning Code.

WHEREAS, The Village of Los Lunas is a legally and regularly created, established, organized and existing municipal corporation under the general laws of the State of New Mexico; and

WHEREAS, The Village of Los Lunas wishes to promote the health, safety, morals and general welfare of the community; and

WHEREAS, House Bill 2, the Cannabis Regulation Act, on April 12th, 2021, was enacted by the Legislature of the State of New Mexico, and signed into law on April 12, 2021, by New Mexico Governor Michelle Lujan Grisham contains provisions authorizing the cultivation, production, possession, manufacture, consumption, purchase, processing, or transportation of cannabis for personal use within or upon the grounds of a private residence by individuals twenty-one years or older; allows commercial cannabis activity involving the cultivation, production, possession, manufacture, consumption, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products by individuals twenty-one years or older; and

WHEREAS, §26-2C-12 NMSA 1978, allows local jurisdictions to adopt rules regulating the time, place and manner of cannabis use, growth, production, processing, sale, transportation, and consumption 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 Village of Los Lunas is committed to adapting its regulations to new land uses where feasible; and

WHEREAS, The Village of Los Lunas municipal code does not currently regulate cannabis use, growth, production, processing, sale, transportation, and consumption as to time, place, or manner nor do they provide for adequate enforcement measures or reasonably limit density of licenses and operating times consistent with neighborhood uses; and

WHEREAS, The Village of Los Lunas intends to amend the current Village of Los Lunas Municipal Code to enact reasonable and rational regulations to regarding cannabis uses within the exterior boundaries of the Village of Los Lunas as permitted by §26-2C-12 NMSA 1978.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF LOS LUNAS, COUNTY OF VALENCIA, STATE OF NEW MEXICO THAT,

TITLE 17 (ZONING), OF THE MUNICIPAL CODE BE AMENDED AS FOLLOWS:

CHAPTER 17.40 (PERMISSIBLE USES)

17.40.010 – Table of permissible uses.

		ZONES											
29.000		RECREATIONAL CANNABIS											
USES	DESCRIPTION	AR	RR	R1	R2	R3	MH	C1	C2	M1	SU	TOD-MU	TOD-R
29.100	HOMEGROWN/HOMEMADE	P	P	P	P	P	P	P			P	P	P
29.200	CANNABIS PRODUCER	D						D	P	P	P		
29.300	CANNABIS MANUFACTURER	D						P	P	P	P		
29.400	CANNABIS RETAILER							P	P	P	P	P	P
29.500	CANNABIS RESEARCH/TESTING LABORATORY							P	P	P	P		
29.600	CANNABIS CONSUMPTION AREA	D						P	P	P	P		

| P = Permissible | D = Designated Use Permit, see chapter 17.16 |

17.44.250 – Recreational Cannabis Regulations Established

The use, growth, production, processing, sale, transportation, and consumption of recreational cannabis is permitted within the exterior boundaries of the Village of Los Lunas as authorized by the New Mexico Cannabis Regulation Act and the Village of Los Lunas Municipal Code, in accordance with the Table of Permissible Uses, this section and the provisions of Chapter 17.50 – Recreational Cannabis as follows:

- A. Recreational homegrown cannabis growth and consumption is permissible pursuant to §17.40.010: 29.100, Homegrown/Homemade, provided there is a habitable dwelling unit as defined in §17.08.010 of the Los Lunas Municipal Code located on the property.
- B. Cannabis establishments as defined in §17.50.010 of the Los Lunas Municipal Code are permitted within or upon the grounds of a State licensed cannabis establishment without limit on the number of licensees occupying a single premises; so long as the activity is located in a permissive zone or a zone requiring a designated use permit. However, no property with a zoning designation

of Special Use on the effective date of this ordinance shall be considered to have any cannabis establishment or activity approved as a permissive use notwithstanding the table of permissible uses. An applicant seeking approval for a cannabis establishment within an area zoned Special Use shall abide by the provisions of 17.44.200 – SU Zone Change Procedures before a cannabis establishment is permitted to be located in a Special Use zone.

- C. Commercial cannabis activity as defined in §17.50.010 of the Los Lunas Municipal Code is prohibited less than three hundred feet from the property line of a daycare center or school and shall not exceed a density of more than one establishment per 2000 residents, as determined by the most recent population data published by the US Census Bureau.

17.50 – Recreational Cannabis

17.50.010 – Definitions

For the purpose of this chapter, the definitions contained within shall apply unless the context clearly indicates or requires a different meaning. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise

“Cannabis” means all parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and does not include:

- A. The mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination;
- B. The weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product.

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

“Cannabis courier” means a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

“Cannabis establishment” means any of the following:

- A. Cannabis testing laboratory
- B. Cannabis manufacturer
- C. Cannabis producer
- D. Cannabis retailer
- E. Cannabis research laboratory
- F. Vertically integrated cannabis establishment
- G. Cannabis producer microbusiness
- H. Integrated cannabis microbusiness

“Cannabis extract” means a product obtained by separating resins, tetrahydrocannabinols or other substances from cannabis by extraction methods approved by the New Mexico Cannabis Control Division; and does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product.

“Cannabis flowers” means only the flowers of a cannabis plant.

“Cannabis manufacturer” means a person that

- A. Manufactures cannabis products;
- B. Packages cannabis products;
- C. Has cannabis products tested by a cannabis testing laboratory; or
- D. Purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments;

“Cannabis producer” means a person that

- A. Cultivates cannabis plants;
- B. Has unprocessed cannabis products tested by a cannabis testing laboratory;
- C. Transports unprocessed cannabis products only to other cannabis establishments; or
- D. Sells cannabis products wholesale.

“Cannabis producer microbusiness” means a cannabis producer at a single licensed premises that possesses no more than two hundred total mature cannabis plants at any one time.

“Cannabis Product” means a product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients.

“Cannabis research laboratory” means 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 retailer” means a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

“Cannabis plant setback” means the distance from any lot line to the center of the cannabis plant root ball.

“Cannabis server permit” means an authorization that allows a person to directly offer, sell or serve cannabis or cannabis products as part of commercial cannabis activity in a cannabis consumption area.

“Cannabis testing laboratory” means a person that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing.

“Commercial cannabis activity” means

- A. The cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, and purchase for resale, sale or consignment of cannabis products.
- B. Does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis.

“Consumer” means a person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

“Density” means the number of cannabis establishments allowed within the Village of Los Lunas municipal boundary based upon the population within the municipal boundary as determined by the US Census Bureau. Density shall not be construed to create an additional buffer around any establishment.

“Facility” means a building, space or grounds licensed for the production, possession, testing, manufacturing or distribution of cannabis, cannabis extracts or cannabis products.

“Homegrown” or “homemade” means grown or made for purposes that are not dependent or conditioned upon the provision or receipt of financial consideration.

“Household” means a dwelling unit and includes any place in or around the housing unit at which an occupant of the housing unit produces, manufactures, keeps or stores homegrown cannabis or homemade cannabis products.

“Immature cannabis plant” means a cannabis plant that has no observable flowers or buds.

“Integrated cannabis microbusiness” means persons, firms, corporations or associations of any character that is authorized to conduct one or more of the following:

- A. Production of cannabis at a single licensed premises; provided that the person shall not possess more than two hundred total mature cannabis plants at any one time.
- B. Manufacture of cannabis products at a single licensed premises.
- C. Sales and transportation of only cannabis products produced or manufactured by that person.
- D. Operation of only one retail establishment.
- E. Couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

“Licensed premises” means a location that includes:

- A. All enclosed public and private areas at the location that are used in the business and includes offices, kitchens, restrooms and storerooms.
- B. All areas outside of a building that are specifically included in the license for the production, manufacturing, wholesale sale or retail sale of cannabis products.
- C. With respect to a location that is specifically licensed for the production of cannabis outside of a building, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases or has a right to occupy.

“Local jurisdiction” means the Village of Los Lunas

“Manufacture” means to compound, blend, extract, infuse, package or otherwise prepare a cannabis product.

“Medical cannabis” means cannabis products used by a qualified patient or reciprocal participant in accordance with the Lynn and Erin Compassionate Use Act.

“Medical cannabis registry” means the system by which the department of health approves or denies applications and issues and renews registry identification cards for qualified patients.

“Open-air” means a free or unenclosed space overhead outdoors.

“Primary caregiver” means a resident of New Mexico who is at least eighteen years of age and who is responsible for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act.

“Private Residence” means the enclosure used as a dwelling, including, without limitation a single family home, accessory apartment, mobile home, duplex, townhome, patio home, or multi-family apartment. For the purposes of this definition, a short-term rental, boarding house, hotel, motel, and similar businesses or institutions for public accommodation, hospital, nursing home, halfway house, or assisted living facility shall not be considered a private residence.

“Public place” means a place to which the general public has access and includes hallways, lobbies and other parts of apartment houses and hotels that do not constitute rooms or apartments designed for actual dwelling, highways, streets, schools, places of amusement, parks, playgrounds, and places used in connection with public passenger transportation.

“Retail establishment” means a location at which cannabis products are sold to qualified patients, primary caregivers and reciprocal participants and directly to consumers.

“Vertically integrated cannabis establishment” means persons, firms, corporations or associations of any character that is authorized to act as any of the following:

- A. Cannabis courier.
- B. Cannabis manufacturer.
- C. Cannabis producer.
- D. Cannabis retailer.

17.50.020– Personal Use of Cannabis

Indoor or outdoor cultivation of live cannabis plants is permitted within a single private residence, upon the grounds of a private residence, or inside an accessory structure located on the grounds of a private residence, to the extent such cultivation is authorized by §26-2C-27 NMSA 1978, and is in strict compliance with the following requirements:

- A. Possessing, planting, cultivating, harvesting, drying, manufacturing cannabis products, or transporting not more than six mature cannabis plants and six immature cannabis plants per person; provided that despite a household having multiple residents, no more than twelve mature cannabis plants may be present in one household; and provided further that if the person does not exceed the maximum number of cannabis plants, the person may possess the cannabis produced by the cannabis plants notwithstanding any weight limits and shall be stored in such a manner not to be visible from public view.
- B. Cannabis cultivation is permitted within a private residence and shall not be visible from the exterior of that residence. In addition, cannabis cultivation is permitted within a fully enclosed accessory structure within the rear or side yard of a private residence such as a greenhouse, shed, or similar. Cultivation areas must be secured by lock and key or other security devices which prevent unauthorized entry and shall not be visible from a public right-of-way.
- C. Open-air cannabis cultivation is permitted within the rear or side yard of a private residence, provided there is a minimum of a ten-foot setback. Cultivation areas must be secured by lock and key or other security devices which prevent unauthorized entry and shall not be visible from a public right-of-way.
- D. Obtaining or manufacturing cannabis extract using nonvolatile solvents, alcohol or carbon dioxide, or no solvents is permitted.
- E. Cannabis cultivation, including, but not limited to, any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in Title 15, Building and Construction, of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
- F. The dwelling unit shall remain at all times a residence
- G. , with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. These rooms may not be used for Cannabis cultivation where cultivation will prevent their primary use for cooking meals, sleeping, and bathing. Chemicals used for cannabis cultivation

shall not be stored inside habitable areas of the residence or within public view from neighboring properties or public right-of-way.

- H. Consumption of cannabis, whether smoking, vaporizing, or ingesting, is permitted within or upon the grounds of a private residence pursuant to the Dee Johnson Clean Indoor Air Act.
- I. Cultivation of cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.

17.50.030– Cannabis Establishments

Cannabis establishments and related commercial cannabis activity as authorized by the New Mexico Cannabis Regulation Act and the Los Lunas Municipal Code, are permitted within or upon the grounds of a State licensed establishment without limit to the number of licensees occupying a single premises; so long as the activity is located in a permissive zone or an approved zone requiring a designated use permit. All cannabis establishments and cannabis activity are prohibited less than three hundred feet from the property line of a daycare center or school and shall not exceed a density of more than one establishment per 2000 residents, as determined by the most recent population data published by the US Census Bureau. Cannabis establishments shall also operate in strict compliance with the following requirements.

A. Commercial Cannabis Cultivation and Production

1. Cannabis cultivation or production indoors and entirely within a primary building, accessory building, or accessory structure such as a greenhouse or similar is permitted and shall not be visible from the exterior or public right-of-way. Cultivation or production areas must be secured by lock and key or other security devices which prevent unauthorized entry.
2. Open-air cannabis cultivation outside of the primary building and upon the grounds of the cannabis establishment is permitted and shall not be visible from the public right-of-way. Cultivation areas must be secured by lock and key or other security devices which prevent unauthorized entry.
3. Commercial cannabis activity where cultivation or production of cannabis occurs must comply with the requirements of Chapter 13.24 of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
4. Commercial cannabis activity where cultivation or production, including, but not limited to, any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in Title 15, Building and Construction, of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
5. Commercial cannabis activity relating to transportation, couriering, and purchase for resale, sale or consignment of cannabis products shall be prohibited between the hours of 9:00 p.m. until 9:00 a.m. the following day.
6. Cultivation of cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.

B. Commercial Cannabis Manufacturing

1. Manufacturing or processing cannabis shall be conducted entirely within an enclosed building and shall not be visible from the exterior of the cannabis establishment or public right-of-way.

2. Commercial cannabis activity where manufacturing or processing cannabis occurs must comply with of Chapter 13.24 of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
3. Commercial cannabis activity where manufacturing or processing, including, but not limited to, any lighting, plumbing, building, or electrical components used for cannabis production, must comply with current requirements in Title 15, Building and Construction, of the Los Lunas Municipal Code as it currently exists or is amended from time to time.
4. Commercial cannabis activity relating to transportation, couriering, and purchase for resale, sale or consignment of cannabis products shall be prohibited between the hours of 9:00 p.m. until 9:00 a.m. the following day.
5. Manufacturing or processing cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.

C. Commercial Cannabis Retail Establishment

1. Onsite retail sales are permitted where commercial cannabis activities occur so long retail areas are separated to prevent unauthorized entry to storage, cultivation, production, manufacturing, or processing areas.
2. Retail sales shall be conducted entirely within an enclosed building and shall not be visible from the exterior of the cannabis establishment or public right-of-way.
3. Commercial cannabis activity relating to transportation, couriering, and purchase for resale, sale or consignment of cannabis products shall be prohibited between the hours of 9:00 p.m. until 9:00 a.m. the following day.
4. Resale, sale or consignment of cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.

D. Commercial Cannabis research or testing laboratory

1. Commercial cannabis activity relating to transportation, couriering, and purchase for resale, sale or consignment of cannabis products shall be prohibited between the hours of 9:00 p.m. until 9:00 a.m. the following day.
2. Researching, testing, or processing cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.

E. Cannabis Consumption Areas

1. Commercial cannabis activity relating to consuming, smoking, or vaporizing cannabis shall be prohibited between the hours of 9:00 p.m. until 9:00 a.m. the following day.
2. Cannabis smoking or vaporizing shall be within a designated smoking area or in a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act.
3. Cannabis consumption areas or otherwise consuming, smoking, or vaporizing cannabis is prohibited in public and within or upon the grounds of Village owned property.
4. Cannabis consumption areas or otherwise consuming, smoking, or vaporizing cannabis shall not violate any other provisions of the Village of Los Lunas Municipal Code.

17.50.040– Cannabis Establishment License

- A. No persons, firms, corporations, or associations of any character authorized to conduct commercial cannabis activity by the Cannabis Control Division shall engage in such activity without first having obtained a license to do so from the local jurisdiction as provided in this chapter.
- B. All licenses shall be issued for a period of one year and shall commence on July 1st and expire on June 30th, provided that licenses issued prior to the first day of October of each year shall be subject to the full amount of the annual fee; licenses issued subsequent to the first day of October and prior to the first day of January of each year shall be subject to three-fourths of the annual fee; licenses issued subsequent to the first day of January and prior to the first day of April shall be subject to one-half of the annual fee; and licenses issued subsequent to the first day of April shall be subject to one-fourth of the annual fee. Only one class of license covering commercial cannabis activity within the local jurisdiction shall be issued. The license fee for the same is fixed at the sum of two hundred dollars per year.
- C. No license shall be issued to any persons, firms, corporations, or associations of any character who is not qualified therefor under regulations of the Cannabis Control Division and who has not already obtained a pertinent license from the Division.
- D. It shall be unlawful and a misdemeanor for any person to violate any of the designated regulations and provisions of this chapter.
 - 1. Any person convicted of a violation of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.

PASSED, APPROVED, SIGNED, AND ADOPTED THIS 4TH DAY OF NOVEMBER 2021.

Charles Griego, Mayor
Village of Los Lunas
ATTEST:

Gregory D. Martin, Village Administrator
Village of Los Lunas