

# San Miguel County, New Mexico



## Hemp, Medical and Recreational Cannabis Ordinance 11092021-P&Z

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## DEFINITIONS -

### (A) "Cannabis:

- (1) 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
- (2) 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; or
  - (b) the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink or another product;

**(B) Cannabis Consumption Area:** An area where cannabis products may be served and consumed;

**(C) Cannabis Control Division:** department created to administer the Cannabis Regulation Act, the licensing provisions of the Lynn and Erin Compassionate Use Act and rules promulgated in accordance with those acts.

**(D) Cannabis Courier:** A person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

### (E) Cannabis Establishment:

- (1) a cannabis testing laboratory;
- (2) a cannabis manufacturer;
- (3) a cannabis producer;
- (4) a cannabis retailer;
- (5) a cannabis research laboratory;
- (6) a vertically integrated cannabis establishment;
- (7) a cannabis producer microbusiness;
- (8) an integrated cannabis microbusiness;
- (9) a cannabis consumption area.

### (F) Cannabis Extract:

(1) means a product obtained by separating resins from cannabis by solvent extraction using solvents other than vegetable glycerin, such as butane, hexane, isopropyl alcohol, ethanol or carbon dioxide; and

(2) does not include the weight of any other ingredient combined with cannabis extract to prepare topical or oral administrations, food, drink or another product;

**(G) Cannabis Manufacturer:**

- (1) A person who manufactures cannabis products;
- (2) packages cannabis products;
- (3) has cannabis products tested by a cannabis testing laboratory; or
- (4) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments;

**(H) Cannabis Producer:**

- (1) A person that cultivates cannabis plants;
- (2) has unprocessed cannabis products tested by a cannabis testing laboratory;
- (3) transports unprocessed cannabis products only to other cannabis establishments; or

**(I) 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;

**(J) 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;

**(K) Cannabis Retailer:**

means a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

**(L) 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;

**(M) Daycare Center:**

shall mean any place which contributes to or is otherwise engaged in the supervision of minors, the elderly, and those with disabilities.

**(N) Integrated Cannabis Microbusiness:**

a person that is authorized to conduct one or more of the following:

- (1) 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;

- (2) manufacture of cannabis products at a single licensed premises;
- (3) sales and transportation of only cannabis products produced or manufactured by that person;
- (4) operation of only one retail establishment; and
- (5) couriership of cannabis products to qualified patients, primary caregivers or reciprocal
  - a. participants or directly to consumers;

**(O) Licensed Premises:**

- (1) a location that includes all enclosed public and private areas at the location that are used in the business and includes offices, kitchens, restrooms and storerooms;
- (2) all areas outside of a building that are specifically included in the license for the production,
- (3) manufacturing, wholesale sale or retail sale of cannabis products; and with respect to a location that is specifically licensed for the production of cannabis outside
- (4) 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;

**(P) Manufacture:**

means to compound, blend, extract, infuse, package or otherwise prepare a cannabis product;

**(Q) Medical Cannabis:**

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

**(R) School:**

shall mean any place which engages in the business of instructing or educating persons of any age, including without limitation public, private, charter and religious education or instruction.

**(S) Standalone Building:**

a building whose heating, air conditioning and ventilation system services only that building.

**(T) Retail Establishment:**

means a location at which cannabis products are sold to qualified patients, primary caregivers, reciprocal participants and directly to consumers;

**(U) Unprocessed:**

means unaltered from an original, raw or natural state; and;

**(V) Vertically Integrated Cannabis Establishment:**

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

- (1) a cannabis courier;
- (2) a cannabis manufacturer;
- (3) a cannabis producer; and
- (4) a cannabis retailer;
- (5) a cannabis consumption area.

## **Section 1: Findings**

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San Miguel County makes the following findings regarding **hemp, medical cannabis** and recreational cannabis:

WHEREAS, enacted by the legislature and signed into law by Governor Michelle Lujan Grisham in April 2021, New Mexico's HB 2, the Cannabis Regulation Act (CRA), Laws 2021 (1st S.S.), Chapter 4, legalized recreational cannabis for adults twenty-one (21) years and older, including outdoor/indoor commercial production, extraction, retail and cannabis consumption areas; and

WHEREAS, the Cannabis Control Division began accepting and processing license applications on September 1, 2021 for cannabis producers, cannabis producer microbusinesses and persons properly licensed and in good standing as a licensed cannabis producer for medical use, pursuant to the Lynn and Erin Compassionate Use Act, legalizing production for medical use of cannabis; and

WHEREAS, the Cannabis Control Division will be accepting and processing additional license applications other than producer licenses beginning January 1, 2022 followed by retail sales to begin April 1, 2022; and

WHEREAS, prior to this ordinance, the following uses were not specifically permitted or zoned per San Miguel County Ordinance 86-2; hemp, medical cannabis or recreational cannabis production which can include, but are not limited to, production, extraction, retail, cannabis consumption areas; and

WHEREAS, The Cannabis Regulation Act has authorized a variety of uses related to the legalization of commercial cannabis activities, which legalization has the potential to greatly expand the legal cannabis market; and

WHEREAS, hemp/cannabis cultivation, production, and manufacturing creates strong odors, can involve the use of significant amounts of energy and water, and requires security and other measures to reduce the risk of theft or other diversion to the illegal cannabis market, including possession and use by persons under the age of twenty-one; and

WHEREAS, density limits are necessary to ensure that cannabis establishments are not unduly concentrated and do not crowd out other non-residential uses; and

WHEREAS, the smoking of cannabis products may create health risks due to exposure to secondhand smoke and vaporized cannabis concentrates; and

WHEREAS, cannabis is an intoxicating drug, making it appropriate to regulate the hours during which cannabis products may be sold and the areas in which cannabis products may be consumed; and

WHEREAS, that it's necessary that regulation of hemp, medical and recreational cannabis growth, production and personal use be implemented for the public health, safety and welfare of San Miguel County and its citizens.

## Section 2: Zoning Requirements

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2.1. Any hemp, medical cannabis or recreational cannabis licensee that **cultivates cannabis plants commercially indoors** shall be permitted use in the following zones:

2.1.1. A1 Zone- one (1) acre minimum requirement; must be able to meet all setbacks per this ordinance, all other SMC county ordinances and all state requirements for production.

2.1.2. A2 Zone--two (2) acre minimum requirement; must be able to meet all setbacks per this ordinance, all other SMC county ordinances and all state requirements for production.

2.1.3. Rural Holding Zone-five (5) acre minimum requirement; must be able to meet all setbacks per this ordinance, all other SMC county ordinances and all state requirements for production.

2.1.4. R1 Zones, Traditional Community Zones and Extra-Territorial (ETZ) Zones – (1) acre minimum requirement; must be able to meet all setbacks per this ordinance, all other SMC county ordinances and all state requirements for production.

2.2. Any hemp, medical cannabis or recreational cannabis licensee that **cultivates cannabis plants commercially outdoors** shall be permitted in all zones stated in Section 2.1 of this ordinance.

2.3. Any hemp, medical cannabis or recreational cannabis licensee that will **engage in commercial cannabis extraction** shall be considered in all zones in Section 2.1 of this ordinance, unless determined by the San Miguel County Fire Chief/NM State Fire Marshal's Office.

2.4. Any hemp, medical cannabis or recreational cannabis licensee that seeks to **operate a commercial retail facility** shall be permitted in all zones in Section 2.1 of this ordinance: must

be able to meet acreage requirements, all setbacks per this ordinance, all other SMC county ordinances and all state requirements for retail.

2.5. Cannabis consumption areas will be a conditional use in all zones in San Miguel County.

2.6. Cannabis establishments in the ETZ zone led by San Miguel County per *Section 3: ETZ Zone Requirements* will fall under all setbacks of this ordinance, SMC ordinances, state requirements and those pertaining to the ETZ ordinance shared with the City of Las Vegas.

2.7. A conditional use application will be recommended in the instance whenever additional evaluation is needed, per the discretion of the Planning & Zoning Director.

2.8. With the exception of cultivation, cannabis establishments and all activity associated therein shall be in a permanent enclosed building, be permanently secured to an established foundation, shall adhere to County building and safety codes, including the Construction Industry Division (CID).

2.9. Home occupation permits, all sale and operations from drive-through locations, mobile, portable, or temporary units including but not limited to, motor vehicles, food trucks, RV campers, truck trailers and self-powered mobile facilities are prohibited in all zones.

2.10. Any new or currently licensed hemp and medical cannabis establishments in San Miguel County will be required to comply to the appropriate sections of the ordinance, including completion of an application and payment of said fees/late fees.

2.11. All land use including all developments, but not limited to, related to the operation of hemp and cannabis establishments are subject to all other applicable sections San Miguel County Ordinance 86-2 and other relevant county ordinances.

2.12. Cannabis can only be consumed within a licensed cannabis consumption area approved by the Cannabis Control Division and approved by San Miguel County, which shall only occupy a designated smoking area or standalone building from which smoke and cannabis odor does not infiltrate other indoor workplaces or other indoor places, where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act.

2.13. Licensees are specifically allowed to conduct other licensed activities, including activities pursuant to the Hemp Manufacturing Act, except for sales of alcoholic beverages.

2.14. Cannabis producers, cannabis producer microbusinesses, and cannabis manufacturers shall use industry standard techniques to minimize odors, toxic or noxious matter, such as activated carbon filtration and regular maintenance of HVAC systems.

### **Section 3: ETZ Zone Requirements**

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3.1. The application process for obtaining an application to engage in commercial cannabis activity or a cannabis consumption area within the extra-territorial zone (“ETZ”) shall require the following:

3.2. San Miguel County (the “County”) shall be the primary point of contact and decision-making for all applicants if utilities are not provided by the City, which includes without limitation non-municipal/non-City sources of water, septic, solid waste provided by the County and electrical services by a provider other than PNM/Avangrid or some other merger, subsidiary or affiliate of said companies. In such circumstances, County cannabis fees shall apply.

3.3. The City shall take be the primary point of contact and decision-making for all applications if one or more of the utilities are provided by the City, which includes without limitation electrical services by a provider other than PNM/Avangrid or some other merger or affiliate of said companies, City wastewater, City solid waste or City gas. In such situations, City cannabis fees shall apply.

3.4. An application under this Section shall not be complete unless it includes a mandatory evaluation fee of \$150.00, to be paid to the entity which is not serving as the primary point of contact and decision-making, for the resources required to jointly evaluate any ETZ matters.

3.5. All applicants shall have an initial consultation with the Planning and Zoning Departments of the County and City.

3.6. If at any time the County or City desires a conditional use permit for the applicant, thus requiring a Planning and Zoning Commission hearing and/or approval by the governing body of the County or City, the Planning and Zoning Departments of the County and City shall be present for any public hearing to address any concerns of the County or City.

3.7. Approved applicants shall be required to attain both a County and City business license or registration, whichever is applicable. An inspection by the City Fire Department shall be required for any business operating in the ETZ, subject to the City’s Fire Inspection fee.

## **Section 4: Location**

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4.1. **Minimum separation distance: 300 feet.** Any hemp or cannabis establishment must maintain a minimum separation distance of 300 feet from any residence, including home of the applicant.

4.2. Any cannabis establishment, cannabis consumption area, or cannabis courier must maintain a **minimum separation distance of 300 feet** from any school or daycare center that was in existence at the time the cannabis establishment was issued a license by the state.

4.3. A cannabis production or cannabis extraction establishment must maintain a **minimum separation distance of 300 feet** of another cannabis production establishment, cannabis extraction establishment or alcohol establishment.

4.4. A cannabis retail establishment shall maintain a **minimum distance of 200 feet** from another cannabis retail establishment; a requested variance to this section will proceed as conditional use.

4.5. For section 4.2, all measurements to determine the location of a hemp or cannabis establishment shall be the shortest direct line measurement between the actual limits of the real property to the actual limits of the real property of the proposed hemp or cannabis establishment. All other measurement will be structure to structure unless otherwise decided by conditional use or the SMC Fire Chief.

4.6. Any medical cannabis establishment existing as of the date of the passage of this Ordinance shall not be required to comply with the location requirements of Section 4.2.

## **Section 5: Operating Times**

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5.1. Unless further restricted in a Conditional Use Permit, cannabis retailers and cannabis consumption areas may only operate during the following hours:

5.1.1 Monday through Sundays from 7:00 a.m. to 11:00 p.m.

5.2. No alcohol or alcoholic products shall be located, sold, consumed or served, in a cannabis consumption area and cannabis retail location.

## **Section 6: Security/Fencing**

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6.1. Any licensed premise that contains an outdoor cannabis growing area or approved greenhouse for cannabis production shall also implement all security measures mandated by the Cannabis Control Division to ensure that the outdoor area or greenhouse is not assessable to unauthorized individuals and is secure to prevent and detect diversion, theft, or loss of cannabis, which shall at a minimum include:

6.1.1. A perimeter security fence designed to prevent unauthorized entry to any cannabis cultivation areas and signs that shall be a minimum of 12" x 12" and which states: "Do Not Enter - Limited Access Area - Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height; and

6.1.2. A cover that obscures cannabis cultivation areas from being readily viewed from outside of the fenced area.

6.2. Licensees shall ensure that limited-access areas can be securely locked using commercial-grade locks that meet applicable building and fire codes. Licensees shall also use commercial-grade locks that meet applicable building and fire codes on all points of entry and exit to the licensed premises and access points to areas where cannabis and cannabis products are stored.

6.3. Any entity providing a cannabis consumption area shall have fulltime in-person security to prevent access for those under the age of 21 years and others who are not permitted in a cannabis consumption area.

6.4. The most current security measures mandated by the Cannabis Control Division will be required in accordance with any other county ordinances and fire inspections.

## **Section 7: Smoking Cannabis in Public Spaces**

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7.1. Smoking of cannabis products in a public place, except as permitted by state law, is prohibited.

7.2. Access to cannabis consumption areas open to consumers is restricted to persons twenty-one years of age and older.

## **Section 8: Cannabis Consumption Areas**

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8.1. A cannabis consumption area may be located inside any cannabis retailer; provided, however, that smoking of cannabis products in such consumption areas is only allowed if the cannabis consumption area occupies a designated area or 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, NMSA 1978, Chapter 24, Article 16.

8.2. Cannabis consumption areas that are open to consumers are also subject to the following:

8.2.1 The smoking of cannabis products is not allowed outdoors;

8.2.2. Applicability of other laws.

8.2.3. Outdoor cannabis consumption areas shall be prohibited.

## **Section 9: Application Process**

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9.1. All persons processing hemp, medical cannabis or recreational adult-use cannabis applications with the appropriate state agency seeking operation in San Miguel County, including all persons currently properly licensed to operate medical cannabis establishments, pursuant to the Lynn and Erin Compassionate Use Act, must submit a *Hemp & Cannabis Establishment Application* with the Planning & Zoning Division and pay the non-refundable establishment registration fee of \$350.00.

9.2. The establishment registration fee shall be for a full 12-month period, to be renewed annually per calendar year, and may not be prorated for business conducted for a portion of the year.

9.3. The Planning and Zoning Director shall require the following information from the applicant but not limited to:

- An entirely filled out Hemp & Cannabis Establishment Application acquired by the Planning & Zoning Division; an individual application is required per each separate location.
- Current state-issued license, driver's license of applicant and any other property owners/business partners; expired driver's licenses will not be accepted.
- Certification from the New Mexico Secretary of State Office reflecting the business and/or corporate structure, LLC, if any, of the cannabis producer and/or retailer.
- Current CRS registration card from New Mexico Taxation and Revenue Department.
- The applicant shall provide the most recent recorded survey of the property and updated warranty deed; if the proposed property does not possess a sufficient recorded deed or survey, these steps must be completed prior to being issued an application by the Planning & Zoning Division.
- Document from county assessor's office confirming property taxes are currently paid up to date; the payment of taxes for the following year will also be required.
- Account number and map parcel ID number to the property (can be obtained from the County Assessor's office)
- If not owner of the property, applicant must have a fully executed lease giving legal authority for the use of buildings, property, water rights and allowing any alteration to the property; owners of property will also have to sign the Hemp & Cannabis Establishment Application and be present for any public hearings.
- Proof of compliance with all requirements set forth under state law and as required under by New Mexico's Regulation and Licensing Department (RLD) to obtain a license under the Cannabis Regulation Act; must include receipts of all payments made to CCD/RLD.
- A site map which identifies the location of the production site and/or retail location and that sets forth compliance with the distance requirements set forth herein.
- Certificate of occupancy from the Construction Industry Division (CID); needed prior to fire inspection
- Fire inspection by the NM State Fire Marshal's Office and/or San Miguel County Fire Chief
- Approved Water Plan
  - a. Approved water rights for irrigation, commercial or agriculture by the Office of the State Engineer
  - b. Notarized statement from any board of an Mutual Domestic Water Association if the applicant's water rights consist of such.

- c. Plan for water savings etc.
- Approved Septic Plan
  - a. Written approval needed from the NM Environment Department
- Approved Plan to Reduce Odor
  - a. May be dependent on location of proposed facility
- Plan for Disposal of Waste Products
  - a. Written approval may be needed from the NM Environment Department and SMC Public Works Division
  - b. Cannabis establishments shall provide for proper and secure disposal of cannabis, cannabis remnants or by-products discarded by the establishment. All cannabis, cannabis remnants, and cannabis by-products shall be disposed of in a manner that renders them unusable.

The Planning & Zoning Division shall require additional information than the proposed list if it is found to be for the public health, safety and welfare of San Miguel County and its citizens.

9.4. Upon information provided by the applicant, the Planning & Zoning Director may choose to proceed with any application as a Conditional Use, requiring public hearings with the Planning & Zoning Commission and/or County Commission.

9.5. The application will undergo a full internal departmental review with county departments which include, but are not limited to:

- Planning & Zoning Division
- Fire Division
- Public Works Division

9.6. The County does reserve the right to request an external review if it may be necessary for the public health, safety and welfare of San Miguel County.

9.7. The Planning & Zoning Director will review and contact the applicant no later than 45 days after acceptance of the application, determining whether the application is approved for processing, denied or will remain as pending, requiring additional information.

9.8. The Planning and Zoning Division may issue a permit only upon receipt of the applicant(s) license from CCD or a certified copy of such license, and completion of the applicable San Miguel County permitting process; a provisional license may be considered but shall not be accepted if found insufficient by the Planning and Zoning Director.

9.9. If the applicant provides inaccurate information, refuses or fails to be transparent during the application process, the Planning & Zoning Director may decline the application upon a written letter to the applicant and the Cannabis Control Division of the occurrence. Findings of facts and conclusions of law will be presented with the decision. The applicant can appeal the final written decision within 15 calendar days of its issuance.

9.10. If the applicant fails to provide documentation or provides incomplete or otherwise insufficient documentation regarding the status of their license application through the Cannabis Control Division, the Planning and Zoning Department shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied.

9.11. If the applicant fails to correct the deficiencies indicated in the letter deeming the application incomplete within sixty (60) calendar days of receipt of notice of deficiencies, the application shall be considered withdrawn, and it will be returned to the applicant, therefore, denied.

9.12. A submittal of an application does not guarantee approval. If an application is denied, the applicant can reapply or appeal the decision within 6 months of the determination.

## Section 10: Fees

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10.1. All persons, firms, corporations or associations of any character engaged in any of the various pursuits, businesses and occupations within the unincorporated area of San Miguel County, including any recognized in the Extra-territorial Zone, and hereinafter mentioned, shall before commencing business, and annually thereafter, before the fifteenth day of March, secure a business registration license (\$35.00, \$1.00 Processing Fee) per NMSA § 3-38-3, which includes all hemp and cannabis operations to obtain a county business license to remain in compliance, per County of San Miguel Ordinance No. SMC-04-08-08-ORD, BUSINESS LICENSE REGISTRATION AND REGULATIONS.

10.2. Each entity licensed by the Cannabis Control Division (CCD) or the New Mexico Environment Department (NMED), after obtaining licensure, shall obtain a county hemp/cannabis business license annually per calendar year, pay the hemp/cannabis registration fee of \$350.00 annually per calendar year, \$150.00 enforcement fee and the additional fee for the appropriate license acquired by the CCD or NMED for each appropriate license which will be implemented as such:

- **Courier** - \$50.00 first year / \$25.00 annually
- **Testing Laboratory** - \$250.00 first year / \$100.00 annually
- **Manufacturer** - \$250.00 first year / \$100.00 annually
- **Producer** - \$250.00 first year / \$100.00 annually
- **Retailer** - \$250.00 first year / \$100.00 annually
- **Research Laboratory** - \$250.00 first year / \$100.00 annually
- **Vertically Integrated Cannabis Establishment** - \$750.00 first year / \$100.00 annually
- **Cannabis Producer Microbusiness**- \$50.00 for one hundred (100) plants or less annually; \$100.00 for one hundred and one (101) plants to two hundred and fifty (250) plants annually
- **Integrated Cannabis Microbusiness- Activity Based:** \$250.00 first year/\$100.00 per year after first year

- **Cannabis Consumption Area-** \$250.00 annually
- **Enforcement Fee-**\$150.00 annually per location
  1. Any cannabis establishment
- **Per Plant Fee \$2.00 per plant (CCD: \$10.00 per plant)-**
  1. Plant Fees will pertain to all licenses except for cannabis producer microbusinesses and integrated cannabis microbusiness.
  2. If a cannabis producer microbusiness or an integrated cannabis microbusiness enters into a business arrangement with another licensee with the purpose or having the effect of evading the limitations of the licensee's license, such licensee shall not be eligible for the lower fee and shall pay the per-plant fee per the Cannabis Regulation Act.

10.3. San Miguel County can incorporate any additional fees not mentioned in the above list at a minimum of 10% the original fees incorporated by the Cannabis Control Division for medical or recreational cannabis producers or the fees for hemp production incorporated by the New Mexico Environment Department.

10.4. Upon issuance, the cannabis business registration license shall be displayed side-by-side the county business license and must be visible to the public upon entering the facility. The applicant for a cannabis business registration, its principals, registered manager, and all employees must be at least twenty-one years of age, meet all requirements under New Mexico law, and hold valid occupational licenses and registrations as required by the State of New Mexico, including all applicable cannabis licenses.

## **Section 11: Enforcement**

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11.1. A Code Enforcement Officer as designated by the County, a San Miguel County Sheriff's Deputy, and the San Miguel County Fire Chief may issue citations for violation of this ordinance in the unincorporated area of San Miguel County.

11.2. A Code Enforcement Officer as designated by the County, a San Miguel County Sheriff's Deputy, the San Miguel County Fire Chief, the City of Las Vegas Police Department and the City of Las Vegas Fire Department may issue citations for violation of this ordinance in the ETZ Zones.

11.3. Operation of a cannabis establishment without a permit is a violation of this ordinance which is punishable by state law pursuant to the provisions of Section 31-18-15 NMSA 1978.

11.4. Any violation of this Ordinance may be enforced in any court of competent jurisdiction. The penalty per violation shall be no more than \$500.00 per occurrence. Each occurrence will be considered an additional violation resulting in additional fees.

11.5. The County reserves the right to terminate any county-issued licenses or registrations upon a second violation.

11.6. Nothing herein shall prevent San Miguel County from seeking injunctive relief, if appropriate.

## **Section 12: Saving Clause**

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11.1. Should any portion of this Ordinance be declared unenforceable after a final, non-appeal decision of a court of competent jurisdiction, the remaining provisions of this Ordinance shall, to the extent feasible, remain in full force and effect.

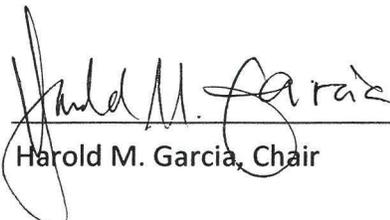
11.2. This ordinance shall be modified with approval of the County Commission as necessary for the public health, safety and welfare of San Miguel County and its citizens as amendments can be anticipated to HB 2 Cannabis Regulation Act and the requirements of the Cannabis Control Division.

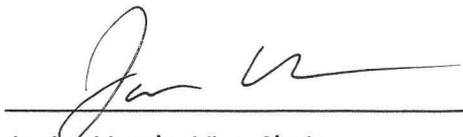
## **Section 13: Emergency Clause and Effective Date**

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Because of the urgent need for regulation pursuant to this Ordinance, the Board of County Commissioners declares that it is necessary for the public peace, health and safety that this Ordinance to take effect immediately after passage when it is recorded in the book kept by the County for that purpose and authenticated by the signature of the county clerk. In the event a court of competent jurisdiction finds that the passage of this Ordinance did not constitute an emergency, then the effective date of this Ordinance shall be 30 days after this Ordinance is recorded with the County Clerk.

PASSED, APPROVED AND ADOPTED by the Board of County Commissioners of San Miguel County, New Mexico, on this day of , 2021.

  
\_\_\_\_\_  
Harold M. Garcia, Chair

  
\_\_\_\_\_  
Janice Varela, Vice-Chair

*Kenneth Medina*

Kenneth C. Medina, Commissioner

*Max O. Trujillo*

Max O. Trujillo, Commissioner

*Martin Sena*

Martin Sena, Commissioner

*J. Ansley*

Joy Ansley, County Manager

ATTEST:

*Geraldine E. Gutierrez*

Geraldine E. Gutierrez, SMC Clerk

*DAVE ROMERO*

Dave Romero, County Attorney

FILED IN MY OFFICE  
AT 2:49 O'CLOCK P M.

DEC 15 2021  
Geraldine E. Gutierrez  
COUNTY CLERK & RECORDER  
SAN MIGUEL COUNTY CLERK  
BY [Signature] DEPUTY  
202104858

Ordinance written by Amanda C. Salas, Planning & Zoning Director