

**VILLAGE OF LOGAN, NEW MEXICO
ORDINANCE NO. 2021-196**

AN ORDINANCE OF THE GOVERNING BODY, VILLAGE OF LOGAN, RELATING TO THE REGULATION OF MEDICAL AND RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA USE OF PUBLIC PROPERTY; RELATING MARIJUANA TESTING FACILITIES AND MARIJUANA ESTABLISHMENTS; AUTHORIZING RETAIL SALES OF MARIJUANA AND MARIJUANA PRODUCTS; SETTING FORTH VIOLATIONS; AND PROVIDING FOR ENFORCEMENT AND PENALTIES.

WHEREAS, New Mexico Governor Michelle Lujan Grisham (D) signed House Bill 2 (HB 2) on April 12, 2021., which contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults age 21 years and older; allowing a nonprofit medical marijuana plants in a primary residence by adults age 21 years and older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation, and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants, and

WHEREAS, Village of Logan finds that the New Mexico Cannabis Regulation Act authorizes marijuana establishments to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and County departments to respond to violations of state and local laws, including building, electrical and fire codes;

WHEREAS, Village of Logan seeks to protect public health, safety, and welfare by enacting reasonable regulations on marijuana establishments in incorporated areas of Village of Logan.

NOW THEREFORE, pursuant to N.M.R.S. §§ 3-19-4, §§3-21-1, 3-18-1, §26-2B-4, §26-2B-5, the Village of Logan Governing Body adopts the following ordinance for the regulation of marijuana possession, consumption, sale, purchase, cultivation, processing, manufacturing, and transporting marijuana within the incorporated areas of Village of Logan, New Mexico:

Section I. In General

A. Purpose

This article is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, Village of Logan enacts reasonable regulations and requires compliance with laws for the retail sale, cultivation and manufacturing of marijuana or marijuana products in a marijuana establishment or marijuana testing facility. Nothing in this Ordinance is intended to promote or condone the sale, cultivation, manufacture, transport,

production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

B. Definitions.

The below words and phrases, wherever used in this article, shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. "*Chemical Extraction*" means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from marijuana.
- B. "*Chemical Synthesis*" means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.
- C. "*Consume.*" "*Consuming.*" and "*Consumption*" mean the act of ingesting, inhaling or otherwise introducing marijuana into the human body.
- D. "*Consumer*" means an individual who is at least twenty-one years of age and who purchases marijuana or marijuana products.
- E. "*Cultivate*" and "*Cultivation*" mean to propagate, breed, grow, prepare and package marijuana.
- F. "*Department*". means the State of New Mexico Department of Health Services or its successor agency.
- G. "*Dual Licensee*" means an entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.
- H. "*Extraction*" means the process of extracting or separating resin from marijuana to produce or process any form of marijuana concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.
- I. "*Manufacture*" and "*Manufacturing*" mean to compound, blend, extract, synthesize, infuse, or otherwise make or prepare a marijuana product.
- J. "*Marijuana*"
 - 1. Means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every

compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.

2. Includes cannabis as defined in N.M.R.S. §26-2B-4, §26-2B-5.
3. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the marijuana to prepare topical or oral administrations, food, drink, or other products.

K. *"Marijuana Concentrate:"*

1. Means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.
2. Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other products.

L. *"Marijuana Establishment"* means an entity licensed by the Department to operate all of the following:

1. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
2. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
3. A single off-site location at which the licensee may manufacture marijuana and marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

M. *"Marijuana Products"* means marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

N. *"Marijuana Testing Facility"* means the Department or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

O. *"Nonprofit Medical Marijuana Dispensary"* means a non-profit entity as defined in N.M.R.S. §26-2B-4, §26-2B-5.

P. *"Open Space"* means a public park, public sidewalk, public walkway, or public pedestrian thoroughfare.

- Q. *"Person"* means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.
- R. *"Process" and "Processing"* means to harvest, dry, cure, trim, or separate parts of the marijuana plant.
- S. *"Public Place"* has the same meaning prescribed in the Dee Johnson Clean Indoor Air Act, N.M.R.S. § 24-16-3.
- T. *"Smoke"* means to inhale, exhale, burn, carry, or possess any lighted marijuana or lighted marijuana products, whether natural or synthetic.

Section II. Marijuana Prohibited on Public Property

- A. The use, sale, cultivation, manufacture, production, storage or distribution of marijuana or marijuana products is prohibited on property that is occupied, owned, controlled, or operated by the Village.
- B. It is unlawful for an individual to smoke marijuana or consume marijuana products on property that is occupied, owned, controlled, or operated by the Village.
- C. It is unlawful for an individual to smoke marijuana or consume marijuana products in any open space in the Village.
- D. It is unlawful for an individual to smoke in a public place in the Village.

Section III. Location

- A. No retail or medical cannabis dispensary shall operate in the Village of Logan, except in areas zoned commercial pursuant to Logan Municipal Code, Section 10-1-9.
- B. No manufacturing or cultivation facility shall operate in the Village of Logan unless they meet the following criteria:
 - 1. Be located on a parcel of real property at least one (1) acre in size.
 - 2. Be at least two hundred (200) feet from any residential public or private building.
 - 3. Be zoned C-1 pursuant to Village of Logan Ordinance Number 10-1-9.
- C. Onsite cannabis consumption at licensed location is prohibited.
- D. No Marijuana establishment shall be located closer than three hundred (300) feet from a school or daycare.

Section IV. Hours of Operation

- A. Hours of operation of any cannabis retail shall be limited to 8:00 a.m. to 8:00 p.m., seven (7) days a week.

Section V. Licensing

- A. Any person or entity conducting any retail, medical, manufacturing or production of cannabis in the Village limits shall be required to obtain a business license from the Village of Logan.
- B. License fees shall be consistent with fees charged to other businesses in the Village of Logan.
- C. The Village Administrator shall adopt a license application to be completed by every proposed business or location associated with cannabis or its products.
- D. No Village license shall be issued unless and until a state license has been granted to the applicant. The Village Administrator may notify the New Mexico regulation and licensing department that a proposed location meets all of the Village criteria for a Village license subject only to the state departments granting of a license.

Section VI. Violations and Penalties

- A. It is unlawful and a violation of this article for a person to sell, cultivate, process, manufacture, store, or transport marijuana or marijuana products, if the person fails to meet all requirements in this article or state law.
- B. Persons or Entities violating the provisions of this article shall be subject to a fine of \$300.00 per day for each day operating in violation of these provisions.
- C. The Quay County Magistrate Court acting as the Logan Municipal Court shall have complete authority to issue and enforce fines under this section. The Magistrate Court shall also have the authority to issue closure orders against any person or entity found to be in violation of this Ordinance.
- D. All orders and levees under this Ordinance shall be enforced by the Logan Police Department
- E. The remedies provided in this article shall be cumulative and in addition to any federal, state, or local remedy, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable state, ordinance, rule, order, or regulation.

SECTION VII. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

SECTION VIII. Recitals.

The recitals above are fully incorporated in this Ordinance by reference.

SECTION IX. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION X. Amendment Corporation

The Village Clerk of the Village of Logan shall incorporate the Amendment set forth herein, into the Village of Logan Village Code.

PASSED, ADOPTED AND APPROVED BY THE GOVERNING BODY OF THE VILLAGE OF LOGAN, NEW MEXICO, THIS 25th DAY OF AUGUST 2021.



ATTEST:

Rosalie Rachor
Clerk/Treasurer

David Babb
Mayor