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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2021-19

AN ORDINANCE

AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987, TO ADDRESS ZONING ISSUES RELATED TO CANNABIS; AMENDING TABLE 14-6.1-1, TABLE OF PERMITTED USES, TO CLARIFY ZONING DISTRICTS FOR VARIOUS TYPES OF CANNABIS ESTABLISHMENTS, AND TO ADOPT OPERATING TIMES, DENSITY LIMITATIONS, AND A MINIMUM DISTANCE BETWEEN CANNABIS RETAIL ESTABLISHMENTS AND SCHOOLS OR DAYCARE CENTERS; AMENDING SUBSECTION 14-6.2(H), AGRICULTURAL USES, TO ADDRESS CANNABIS PRODUCTION; ADDING A NEW SUBSECTION 14-6.2(I) TO ADOPT USE-SPECIFIC STANDARDS FOR CANNABIS ESTABLISHMENTS, INCLUDING OPERATING TIMES, DENSITY LIMITATIONS, AND A MINIMUM DISTANCE BETWEEN CANNABIS RETAIL ESTABLISHMENTS AND SCHOOLS OR DAYCARE CENTERS; AMENDING SUBSECTION 14-6.3(B)(2) TO PROHIBIT COMMERCIAL CANNABIS ESTABLISHMENTS AS ACCESSORY USES OR STRUCTURES ON RESIDENTIALLY ZONED PROPERTY; AMENDING SUBSECTION 14-6.3(D)(2) TO PROHIBIT THE CONDUCT OF A CANNABIS ESTABLISHMENT AS A HOME OCCUPATION;

1 AMENDING SECTION 14-12.1 TO ADD DEFINITIONS FOR VARIOUS TYPES OF
2 CANNABIS ESTABLISHMENTS; ESTABLISHING AN EFFECTIVE DATE; AND
3 MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE
4 PURPOSE OF THIS ORDINANCE.

5
6 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

7 Section 1. Table 16-1.1-1 of the Land Development Code (being Ord. No. 2011-
8 37, § 8, as amended) is amended to read:

9 Table 14-6.1-1

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CATEGORY	RR	R-1	R-7	R-7	RC-5,	R-10	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I-1	I-2	BIP	SC-1	SC-2	SC-3	MU ***	Reqs 14-6.2	Use-Specific	
COMMERCIAL																								
Animal Sales and Service																								
Veterinary establishments, pet grooming	S									P*	P*	P*		P	P	P	P*		P*	P*	P* ₂			
Kennel	S									P*	P*	P*		P	P	P	P*							
Arts Activities																								
Arts and crafts studios, galleries and shops; gift shops for the sale of arts and crafts								P ₁₀	P	P	P	P		P	P				P	P	P	P ²		
Arts and crafts schools								P ₁₀	P	P	P	P		P	P		P	P	P	P	P	P ²		

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Dance studios								P 1 0	P	P	P			P	P		P	P	P	P	P 2	
Photographers' studios								P 1 0	P	P	P			P	P		P	P	P	P	P 2	
Assembly																						
Private clubs and lodges	S	S	S		S	S		S	S	P*	P*	P*	P*	P*			P*	P*	P*	P*	P* 2	
<u>Commercial Cannabis Establishments</u>																						
<u>Cannabis consumption area</u>																						(I)
<u>Cannabis manufacturing, heavy</u>															P	P	P					(I)
<u>Cannabis manufacturing, light</u>												P		P	P	P	P					(I)
<u>Cannabis producer microbusiness (200 mature plants max.), indoor growing only</u>												P			P	P	P	P	P	P		(H), (I)

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<u>Cannabis producer microbusiness (200 mature plants max.), outdoor growing</u>											<u>S</u>				<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>			<u>(H)</u> , <u>(I)</u>	
<u>Cannabis producer, indoor growing only</u>											<u>S</u>				<u>P</u>	<u>P</u>	<u>S</u>							<u>(H)</u> , <u>(I)</u>	
<u>Cannabis producer, outdoor growing</u>											<u>S</u>				<u>S</u>	<u>S</u>	<u>S</u>							<u>(H)</u> , <u>(I)</u>	
<u>Cannabis research laboratory</u>											<u>P</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>							<u>(D)(4)</u> , <u>(I)</u>	
<u>Cannabis testing laboratory</u>											<u>P</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>							<u>(D)(4)</u> , <u>(I)</u>	
<u>Commercial cannabis retailer</u>											<u>P</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P2</u>	<u>(I)</u>

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<p>* Special use permit required if located within 200 feet of <i>residentially-zoned property</i> unless a <i>qualifying project</i> located within the Midtown LINC Overlay District; otherwise permitted. (Ord. No. 2013-16 § 29; Ord. No. 2016-39 § 3)</p>
<p>**Uses listed are in addition to those permitted in the underlying district. No more than 3,000 square feet of <i>gross floor area</i> may be devoted to <i>nonresidential</i> uses.</p>
<p>***See Section 14-7.3(B)(1) for additional MU district regulations including minimum percentage of residential use. (Ord. No. 2013-16 § 22)</p>
<p>1. In the RR district, multiple- family dwellings are limited to four per lot.</p>
<p>2. Hours of operation limited to 7 a.m. to 10 p.m.</p>
<p>3. Amplified live entertainment or amplified music for dancing prohibited after 10 p.m.</p>
<p>4. Not to exceed 1,000 square feet gross floor area, sales of alcohol prohibited.</p>
<p>5. Hospital is a permitted use in the Las Soleras Hospital District; requires special use permit in the Christus St. Vincent Hospital District.</p>
<p>6. See Section 14-6.2(A)(7) for additional regulations for principal dwelling units in the C-2, BIP and SC districts.</p>
<p>7. See Section 14-6.3 for additional accessory use regulations; see Section 14-6.4 (Temporary Uses or Structures)</p>
<p>8. In the Las Soleras Hospital District a heliport serving a hospital is a permitted use.</p>
<p>9. See Section 14-7.2(I) for standards for pre-existing mobile home parks and Section 14-6.2(A)(3)(a) for prohibition of new mobile home parks in MHP districts.</p>
<p>10. See Section 14-7.2(H) 3,000 square foot limit applies to specified uses in RAC district. (Ord. No. 2014-31 § 11)</p>

1 **Section 2. Subsection 14-6.2(H) of the Land Development Code (being Ord. No.**
2 **2016-42, § 2, as amended) is amended to read:**

3 (H) **Agricultural Uses**

4 (1) Agricultural uses for noncommercial purposes that are *accessory* uses to
5 a permitted *principal* use are permitted in all zoning districts but shall not create a public
6 nuisance, subject to Subsection 10-9 SFCC 1987, Nuisance Abatement Ordinance, and shall meet
7 all other applicable *city* codes.

8 (2) Agricultural uses for commercial purposes are permitted as set forth in
9 Table 14-6.1-1; however, the following commercial agricultural uses are specifically prohibited:

- 10 (a) animal production;
- 11 (b) slaughterhouses and slaughtering of livestock; and
- 12 (c) any other use prohibited by 5-7.1 SFCC 1987.

13 (3) Applicability. No agricultural activity shall be conducted, or *farm*
14 *structure* erected, except in compliance with the provisions of this Subsection 14-6.2(H), and
15 shall not supersede the rights of home owners associations (HOAs) or any existing covenants,
16 conditions and restrictions of HOAs or other neighborhood associations. The provisions of this
17 subsection shall apply to all agricultural activities, whether such activity is a primary use or an
18 accessory use, except for:

- 19 (a) Gardens for the personal noncommercial use of residents as
20 accessory uses to *residential* uses.
- 21 (b) Community gardens located on city-owned property and
22 regulated by written policies and procedures of the City of Santa Fe.
- 23 (c) Community gardens for noncommercial purposes permitted as
24 an accessory use.
- 25 (d) The growing of cannabis for personal use, as permitted by the

1 Lynn and Erin Compassionate Use Act, NMSA 1978, Sections 26-2B-1 to -10 NMSA 1978; and
2 the Cannabis Regulation Act, NMSA 1978, Sections 26-2C-1 to -42.

3 4) Approval Procedures.

4 (a) Agricultural uses are allowed as an accessory use; with a special
5 use permit; or permitted by right, all as shown in Table 14-6.1-1.

6 (b) Except as otherwise provided in this Subsection 14-6.2(H), the
7 procedural and other requirements for *home occupations*, special use permits and development
8 plans apply to agricultural uses and *structures*.

9 (c) Agricultural uses and *structures* shall comply with all other
10 applicable provisions of SFCC 1987, including Chapter VII relating to building and housing, and
11 Chapter XII relating to fire prevention and protection.

12 (d) The governing body may adopt by resolution guidelines for the
13 development and operation of agricultural uses, which shall guide the *land use director* in the
14 administration of this Subsection 14-6.2(H).

15 (5) Development Standards.

16 (a) Except as otherwise provided in this Subsection 14-
17 6.2(H), *structures* associated with agricultural uses are subject to the development standards
18 established for the underlying and overlay zoning districts within which the property is located.

19 (b) Agricultural *home occupations* shall comply with
20 Subsection 14-6.3(D)(2).

21 (6) *Urban Farm, Ground Level*.

22 (a) The principal activity to be performed on a *ground level urban*
23 *farm* shall be the cultivation of agricultural crops.

24 (b) *Ground level urban farms* are permitted as provided in Table 14-
25 6.1-1.

1 (7) *Urban Farm, Roof Level*

2 (a) The principal activity to be performed on a *roof level urban*
3 *farm* shall be the cultivation of agricultural crops.

4 (b) *Roof level urban farms* are permitted as provided in Table 14-
5 6.1-1.

6 (8) *Aquaculture, Aquaponics and Hydroponics.*

7 (a) *Aquaculture, aquaponics and hydroponics* are permitted as
8 provided in Table 14-6.1-1.

9 (b) Operations must comply with applicable Federal and State
10 regulations for water use and discharge, and for the possession, propagation, culture, sale and
11 disposition of living marine organisms.

12 (9) *Farm Stands.*

13 (a) An urban farm may include a *farm stand*. *Farm stands* located in
14 zoning districts which otherwise prohibit retail sales shall be limited to sales of agricultural
15 products that are grown on the premises, shall not be larger than 48 square feet, and shall be
16 erected only during business operating hours and during the farming season.

17 (b) Operation of a *farm stand* requires a *home occupation* permit or
18 other type of business license issued by the City of Santa Fe Business Licensing Division.

19 (10) *Screening and Buffering.*

20 (a) Any composting, loading or disposal areas within or adjacent to
21 a *residential or commercial* zoning district shall be screened from view by a wall, fence, berm or
22 vegetative screen, or combination thereof. Any fencing shall be constructed of opaque materials
23 and shall comply with the standards and requirements applicable to fences in the zoning district
24 where the property is located.

25 (b) Any material or equipment stored outdoors within

1 a *residential* or *commercial* zoning district shall be surrounded by a wall or fence or vegetative
2 screen not less than six (6) feet high, as may be necessary, to screen such material or equipment
3 from view from any public street or public open space.

4 (11) Maintenance and Operation. Urban farms, cannabis producers, and
5 cannabis producer microbusinesses shall be used and maintained in such a manner in which at
6 no time shall they constitute a nuisance or hazard to the surrounding neighborhood.

7 (12) Soil Safety. All urban farms, cannabis producers, and cannabis producer
8 microbusinesses using conditioned soil [~~will be~~] are required to comply with the New Mexico
9 Soil and Water Conservation Act, Sections 73-20-25 through 73-20-48 NMSA 1978.

10 (13) *Composting*.

11 (a) *Composting* is accessory to an urban farm, cannabis producer,
12 or cannabis producer microbusinesses and shall be used only onsite where any *ground level*
13 *urban farm* [~~or~~], *roof level urban farm*, cannabis producer, or cannabis producer
14 microbusiness is permitted. Composting shall occupy no more than ten (10) percent of the *farm*
15 *area*, and cooked food, raw animal matter, animal waste, and human waste shall not be used in
16 the creation of compost.

17 (b) *Composting* as a principal use requires approval of a special use
18 permit in *industrial* zoning districts, and is prohibited in other zoning districts.

19 (c) Maximum Height:

20 (i) Maximum height of composting structures or bins shall
21 not exceed the maximum height permitted for fences and walls in the zoning district where the
22 property is located.

23 (ii) On a *roof level urban farm*, any *composting* must be
24 contained within a fully enclosed inflammable bin that does not have direct contact with
25 flammable materials.

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(d) *Setbacks:*

(i) Subject to Subsection 14-6.3(B)(2) Accessory Uses, compost bins, accessory structures and windrows shall comply with the applicable *setback* requirements in all zoned districts.

(ii) Compost bins, structures and windrows located in a required yard or street frontage in all *residential* and *commercial* zoned districts must be screened from street view, and *setback* a minimum of ten (10) feet from the property line.

(14) Water.

(a) Urban farms, cannabis producers, and cannabis producer microbusinesses are allowed to use the following water resources:

(i) Captured rainwater on-site meeting the requirements of the New Mexico State Engineer's Office (OSE) and Subsection 14-8.4(E).

(ii) Passive water harvesting designed to infiltrate water, control runoff and erosion.

(iii) *Gray water* or treated effluent from permitted on-site sources adhering to the requirements of Section 20-7-3 NMAC and Subsection 14-8.4(E)(2) consistent with its adjudicated, licensed, or permitted use.

(iv) Well water from existing on-site wells, provided that such wells are permitted by the OSE for agricultural use, are metered, and tested annually by a laboratory certified by the New Mexico environment department to ensure that the well is bacteria-free and that the levels of arsenic, fluoride, nitrate, and uranium are compliant with EPA primary drinking water standards (maximum contamination levels, or MCLs), and such lab reports shall be sent to the *land use director*.

(v) Municipal water system.

(vi) Stormwater infiltration where or permitted by the OSE.

1 (b) Any constructed water catchment systems shall meet all
2 permitting requirements of the City of Santa Fe's planning and land use department.

3 (c) Water supplied through the municipal water system shall be
4 charged at the rate applicable to the meter size, and shall comply with all applicable requirements
5 of Section 14-8.13 of the land use development code.

6 (i) Separate meters shall be required for irrigation
7 in *commercial* and *industrial* zoned areas unless the total farm area on the lot is less than five
8 hundred (500) square feet, and meter data denoting monthly and annual water use shall be sent
9 to the *land use director* for monitoring purposes.

10 (ii) Water efficient irrigation systems are required to be
11 installed and used when water from the municipal water system is used for irrigation.

12 (d) Irrigation systems shall comply with Subsection 14-8.4(E)(4),
13 including installation of an approved backflow prevention device.

14 (e) Watering times shall comply with the outdoor conservation
15 regulations pursuant to Subsection 25-2.7 SFCC 1987.

16 (f) The use of other water efficient technologies and water
17 management best practices, such as use of ollas or other water-holding materials, are allowed.
18 The *land use director* shall provide all urban farms with city-authored water efficient irrigation
19 guidelines and low-water use landscape literature, such as landscape irrigation design standards.

20 (15) Abandonment.

21 (a) If an agricultural use ceases for any reason for three hundred
22 sixty-five (365) consecutive days without the prior written approval of the *land use director*, the
23 use shall be deemed to be abandoned.

24 (b) Any property used for agricultural purposes pursuant to this
25 section shall be cleared and restored to the state in which it existed prior to commencement of

1 the agricultural use. The property owner shall remove from the property all *farm*
2 *structures* within ninety (90) days after the date the agricultural use is discontinued. Site clearing
3 shall consist of:

4 (i) Physical removal of all *farm structures*, farm equipment
5 and machinery; and

6 (ii) Disposal of all *composting* and agricultural waste in
7 accordance with local and state waste disposal regulations; and

8 (iii) Stabilization of the site's vegetation as necessary to
9 minimize erosion and invasive species encroachment. The *land use director* may allow the owner
10 to leave landscaping in order to minimize erosion and disruption to vegetation.

11 (c) If the applicant fails to remove *farm structures*, farm equipment,
12 and farm machinery in accordance with the requirements of this Subsection 14-6.2(H)(15) within
13 ninety (90) days of the date the agricultural use is discontinued, the *land use director* shall
14 proceed with enforcement actions as provided for in Section 14-11.

15 **Section 3. [NEW MATERIAL] A New Subsection 14-6.2(I) of the Land**
16 **Development Code is ordained to read:**

17 **(I) Cannabis Establishments**

18 (1) Applicable law. *Cannabis establishments* are subject to applicable
19 sections of the Land Development Code, as set forth in Chapter 14 of the SFCC 1987; other
20 applicable city ordinances, as set forth in the SFCC 1987; and applicable state laws and regulations.
21 Applicable provisions include, but are not limited to, the Lynn and Erin Compassionate Use Act,
22 Sections 26-2B-1 to -10 NMSA 1978; the Cannabis Regulation Act, Sections 26-2C-1 to -42
23 NMSA 1978; the Dee Johnson Clean Indoor Air Act, Sections 24-16-1 to -20 NMSA 1978; the
24 Santa Fe Smoke Free Ordinance, Section 10-6 SFCC 1987; the Nuisance Abatement Ordinance,
25 Section 10-9 SFCC 1987; and the Business License Ordinance, Section 18-1 SFCC 1987.

1 (2) Enforcement. A person who fails to adhere to the provisions of Chapter
2 14 of the SFCC shall be subject to the enforcement provisions set forth in Sections 1.3 and 14-11
3 SFCC 1987 and all other legal remedies and enforcement actions available under the law.

4 (3) Permitted Uses. *Cannabis establishments* are permitted only as set forth
5 in Table 14-6.1-1 and this subsection. A *vertically integrated cannabis establishment* or *integrated*
6 *cannabis microbusiness* is permitted only if all uses licensed by the licensee are permitted in the
7 zoning district.

8 (4) Minimum Distance from Schools. A *cannabis establishment* is not a
9 permitted use if the *cannabis establishment* would be located within a three hundred (300) foot
10 radius of an existing preschool, daycare center, elementary school, or secondary school. The radius
11 shall be measured from the subject property boundaries.

12 (5) Retail Establishments.

13 (a) Density limitation. A *commercial cannabis retailer* is not a
14 permitted use if the main entrance accessing the primary function of the *commercial cannabis*
15 *retailer* would be within a four hundred (400) foot distance of the main entrance accessing the
16 primary function of an existing *commercial cannabis retailer*.

17 (b) Operating hours. The hours of operation for a *commercial*
18 *cannabis retailer* may begin as early as 7:00 a.m. and may extend as late as 12:00 a.m. (midnight).

19 (6) Odors and Ventilation. All *cannabis establishments* must comply with
20 applicable state and *city* laws and regulations concerning odors and ventilation, including building
21 and fire codes. Cannabis producers, cannabis producer microbusinesses, and cannabis
22 manufacturers must use industry standard techniques to minimize odorous, toxic, or noxious matter,
23 such as activated carbon filtration and regular maintenance of HVAC systems. Cannabis producers,
24 cannabis producer microbusinesses, cannabis manufacturers, and cannabis consumption areas must
25 obtain city approval of an odor control plan addressing these laws, prior to the issuance of a building

1 permit or certificate of compliance.

2 (7) Safety and Security. All *cannabis establishments* must comply with state
3 law and regulations concerning safety and security, in addition to applicable provisions of SFCC
4 1987.

5 * **Editor's Note: the current subsection (I) shall be re-lettered as subsection (J).**

6 **Section 4. Subsection 14-6.3(B)(2) of the Land Development Code (being Ord.**
7 **No. 2011-37, § 8, as amended) is amended to read:**

8 (B) Permitted Accessory Uses and Structures

9 (2) RR, R1-R-6, R-7, R-7(I), R-8, R-9, RC-5, RC-8, R-10, R-21, R-29, RAC,
10 C-1, C-4, and HZ Districts (Ord. No. 2014-31 § 14)

11 (a) The following *accessory* uses and *structures* are permitted in the
12 RR, R1-R-6, R-7, R-7(I), R-8, R-9, RC-5, RC-8, R-10, R-21, R-29, RAC, C-1, C-4 and HZ districts:
13 (Ord. No. 2013-16 § 31)

14 (i) *home occupations*, as provided for in Subsection 14-
15 6.3(D)(2);

16 (ii) noncommercial *greenhouses* and plant nurseries;

17 (iii) private *garages*;

18 (iv) *utility sheds*, located within the *rear yard* only;

19 (v) children's play areas and play equipment;

20 (vi) private barbeque pits and private swimming pools;

21 (vii) *accessory dwelling units* as regulated in Subsection 14-
22 6.3(D)(1);

23 (viii) other uses and *structures* customarily *accessory* and
24 clearly incidental and subordinate to permitted or permissible uses and *structures*; and

25 (ix) *accessory structures* of a permanent, temporary or

1 portable nature such as coverings not constructed of solid building materials, including inflatable
2 covers over swimming pools and tennis courts, and such other *accessory structures* that exceed
3 thirty (30) inches in height from the average ground elevation.

4 (b) All *accessory* uses and *structures* allowed under Subsection 14-
5 6.3(B)(2)(a) shall:

6 (i) not involve the conduct of *business* on the *premises*,
7 except *home occupations*;

8 (ii) be located on the same *lot* as the permitted *principal* use
9 or *structure* or on a contiguous *lot* in the same ownership; and

10 (iii) not be likely to attract visitors in larger numbers than
11 would normally be expected in a *single-family residential* neighborhood.

12 (c) The following activities are prohibited within *residentially zoned*
13 *districts*:

14 (i) Storage or parking, either continuous or intermittent, of
15 commercial or industrial vehicles, except for those vehicles that are authorized by a special
16 use *permit* or other permitted *non-residential* use.

17 A. Commercial or industrial vehicles include:

18 1. vehicles requiring a commercial driver's
19 license to operate;

20 2. tour buses or school buses;

21 3. concrete mixer trucks or concrete
22 pumper trucks;

23 4. towing vehicles;

24 5. earthmoving or *grading* equipment;

25 6. trailers or tractors (except lawn trailers or

1 tractors)

2 7. motorized construction or agricultural
3 equipment;

4 8. cranes;

5 9. roll-off trash containers (except as
6 related to an active construction *permit*); or

7 10. any other vehicles designed by the
8 manufacturer for *business* purposes.

9 B. Commercial or industrial vehicles do not include:

10 1. *recreational vehicles* or trailers related
11 to *recreational vehicles* that are used for personal purposes; or

12 2. passenger vehicles, pickup trucks or
13 small trailers that may be used for *business* purposes related to a registered *home*
14 *occupation business*.

15 (ii) Outdoor storage of construction materials, except in
16 connection with active construction activities on the *premises*;

17 (iii) Storage of *mobile homes* or commercial shipping
18 containers;

19 (iv) Vehicles, tents or other *structures* that do not comply with
20 this chapter or other applicable codes, used as dwellings;

21 (v) Storage of PODS[®] or similar style moving/shipping
22 containers for more than thirty (30) days;

23 (vi) Storage or parking within any portion of a *street*
24 *yard* other than a driveway of a noncommercial vehicle used for storage of goods, materials or
25 equipment other than those items considered to be a part of the vehicle or essential for its immediate

1 use; ~~and~~

2 (vii) Use of any vehicle as a receptacle for the storage of litter
3 or refuse as provide by Subsections 10-1.13 and 10-1.14 SFCC 1987[-]; and

4 (viii) The conduct of any *business* as a *cannabis establishment*
5 or for a *commercial cannabis activity*.

6 **Section 5. Subsection 14-6.3(D)(2) of the Land Development Code (being Ord.**
7 **No. 2011-37, § 8, as amended) is amended to read:**

8 (D) Standards for Specific Accessory Uses

9 (2) Home occupations

10 (a) Purposes

11 The purposes of the this Subsection 14-6.3(D)(2) are to increase the
12 economic vitality of Santa Fe; provide increased worker independence, self-sufficiency and
13 motivation; decrease traffic congestion through the enhancement of community; increase the
14 safety of the neighborhoods by promoting neighborhood activity; integrate the ideas of working
15 and residing in the same environment; protect the stability and character of the neighborhood;
16 and encourage neighborhood participation in the determination of a successful balance between
17 neighborhood residents and home-based *businesses*.

18 (b) Standards

19 *Home occupations* are permitted on all *property*,
20 including *residential* or *mixed-use residential/commercial* if the standards provided in this
21 paragraph are met.

22 (c) General Standards

23 (i) The *home occupation* shall involve the primary sale of
24 goods or services in connection with the *home occupation* , including: 1) goods that are prepared,
25 produced or grown on the *premises*; 2) services that are developed on the *premises* and provided

1 on or off the *premises*; 3) the sale of goods that are not produced on the *premises* and that are
2 only distributed off the *premises*; or 4) repair services that take place solely within the home.

3 (ii) The *home occupation* shall be located on the same *lot* as
4 the permitted *principal* use or *structure* or on a contiguous *lot* in the same ownership.

5 (iii) The *home occupation* shall be conducted by
6 the *business* owner who resides continuously for a substantial period of time at the *premises* in
7 which the *home occupation* is conducted. Continuous residence is determined by the land use
8 director by review of relevant factors. The address listed on a driver's license, voter registration
9 or tax return may not be sufficient to establish continuous residence.

10 (iv) Not more than two persons, other than members of
11 the *family* who reside on the *premises*, shall be regularly engaged in the *home occupation*.

12 (v) Except for on-street parking, as set forth in this section,
13 a *home occupation* shall be completely contained within the *property* lines of the lot on which
14 the *home occupation* is located. A *home occupation* shall be in compliance with the performance
15 standards set forth in Section 10-4 SFCC (General Environmental Standards); not produce any
16 offensive noise, vibration, smoke, dust, odors, heat, gas, glare or electrical interference; or
17 otherwise create a risk to health, safety or *property* of residents and occupants of adjacent and
18 neighboring *properties*. The storage of firearms, ammunition, fireworks or similar explosives for
19 sale or service is prohibited. Mechanical or electrical equipment that is incidental to the *home*
20 *occupation* may be used if it does not create visible or audible interference in radio, computer or
21 television receivers or cause fluctuation in voltage of the premises or neighboring premises.
22 Depending upon the nature of the *home occupation*, the land use director may require proof of
23 compliance with these restrictions prior to issuance of a *business* registration.

24 (vi) *Employees*, customers, clients or deliveries shall not
25 enter the *premises* between the hours of 7:00 p.m. and 8:00 a.m. weekdays and 7:00 p.m. and

1 10:00 a.m. weekends. Depending on the nature of the *home occupation*, the *land use*
2 *director* may reduce the hours of operation. Deliveries are limited to vehicles that do not exceed
3 eleven (11) feet in height and twenty (20) feet in length.

4 (vii) No cannabis establishment or commercial cannabis
5 activity may be conducted as a home occupation.

6 (d) Structural Standards

7 (i) Not more than twenty-five percent of the *gross floor*
8 *area* of the *dwelling unit*, including *accessory buildings*, shall be used to conduct a *home*
9 *occupation* . In determining the *gross floor area* of an *accessory dwelling unit*, no more than one
10 thousand (1,000) square feet shall be used.

11 (ii) Nothing incidental to the conduct of a *home*
12 *occupation* shall be constructed, installed, placed, parked or stored on a residentially zoned *lot* on
13 which a *home occupation* is being conducted if it is visible from any adjacent or
14 neighboring *property* and if it is not in keeping with the *residential* character of the
15 neighborhoods surrounding the *lot*, except for *signs* and parking set forth in item (iii) below. A
16 person who conducts a *home occupation* and applies for a construction *permit* shall demonstrate
17 to the *land use director* that the proposed construction does not violate any section of this
18 Subsection 14-6.3(D)(2).

19 (iii) No more than one *sign* is permitted, and the area of
20 the *sign* shall not exceed one square foot.

21 (e) Parking Standards

22 (i) Depending on the nature of the *home occupation*, the
23 following parking spaces shall be provided on the *lot* : 1) if there are no *employees* who reside
24 off the *premises* and customers or clients do not come to the *premises*, only parking for
25 the *dwelling unit* is required; 2) if there are no *employees* who reside off the premises and

1 customers or clients come to the *premises* , at least one parking space shall be provided on the
2 lot for every four hundred (400) square feet of the *gross floor area* of the *premises* used for
3 the *home occupation*, in addition to that required for the *dwelling unit*; 3) if there are
4 any *employees* who reside off the *premises* and customers or clients do not come to the *premises*,
5 at least one parking space shall be provided on the *lot* for every *employee* simultaneously
6 working, in addition to that required for the *dwelling unit*; 4) if there are *employees* who reside
7 off the *premises* and customers or clients come to the *premises*, at least one parking space shall
8 be provided on the *lot* for every *employee* simultaneously working and at least one parking space
9 shall be provided on the *lot* for every four hundred (400) square feet of the *gross floor area* of
10 such *premises* used for the *home occupation* in addition to that required for the *dwelling unit*;

11 (ii) No more than one vehicle relating to a *home*
12 *occupation* may be parked at any one time on the *streets* adjacent or proximate to the *lot* on
13 which the *home occupation* is being conducted; however, in light of the character of the
14 surrounding neighborhood, the *land use director* may prohibit any vehicles used in connection
15 with a *home occupation* from parking on the *street*. This item regulates parked vehicles not
16 associated with the *residential* use of the *dwelling unit*.

17 (f) Other Requirements; Inspections

18 (i) The *home occupation* shall comply with all other
19 applicable codes, including without limitation the currently adopted fire and building codes, the
20 federal American disabilities act and the *city's* wastewater requirements. Depending on the
21 location of the *home occupation*, private covenants enforceable by those governed by the
22 covenants may apply.

23 (ii) Inspections by the *city* are required prior to issuance of
24 the *business* registration for the *home occupation* only for those *home occupations* in which the
25 following occur: 1) *employees* reside off the *premises* come to the *premises*; 2) customers or

1 clients come to the *premises*; or 3) goods for sale are prepared, produced, grown or stored on
2 the *premises*. The *city* reserves the right to inspect all *home occupations* for code compliance at
3 such times as the *city* receives a complaint or has reason to believe the *city's* codes may be
4 violated.

5 (g) Notice; Registration; Violations; Complaints; Variances;
6 Appeals

7 (i) A person proposing to conduct a *home occupation* that
8 will have more than one *employee* who will reside off the *premises* or that will have customers
9 or clients coming to the *premises*, shall as part of the *application* be required to give notice, by
10 first class mail with mailing certificate, of the *home occupation application* to all residents
11 and *property owners* within one hundred fifty (150) feet of the *premises* and nearby
12 neighborhood associations. The notice shall include the nature of the *home occupation*, the
13 number of *employees*, whether customers or clients will be involved, the willingness of
14 the *applicant* to meet with the neighboring residents and *property owners* and that the
15 neighboring resident and *property owner* may review the *application* at the *city* offices. The
16 neighboring residents and *property owners* have fifteen days from the date the notice was mailed
17 to review the *application*. The *land use director* shall collect and evaluate this public comment
18 that shall be used in determining whether the *home occupation* shall be approved and what
19 restrictions, if any, shall be placed on it.

20 (ii) Each person who engages in a *home occupation* shall
21 register the *home occupation* with the *city* on forms designated by the *city*, shall provide such
22 information as required by the forms to verify compliance with the regulations, and shall renew
23 such registration each year.

24 (iii) A person shall not conduct a *home occupation* in
25 violation of this section. In addition to any other remedies available, the *city* may revoke

1 the *business* registration for the *home occupation* or the *certificate of occupancy* for
2 any *building* in which a *home occupation* is being conducted in violation of this section. A person
3 who fails to comply with the provisions of this section is subject to a penalty as provided
4 in Article 14-11.

5 (iv) A *person* who is aggrieved by an approved *home*
6 *occupation business* may file a complaint with the *city*. Within thirty calendar days of
7 the *city's* receipt of the complaint, the *city* shall investigate the complaint and issue a written
8 decision as to whether the *home occupation* against which the complaint was filed violates or
9 complies with this section. If a violation is found, the *land use director* shall determine the
10 actions that have been or should be taken to address the violation. Complaints shall be kept on
11 file and be open to the public. When investigating complaints, the *land use director* shall review
12 the file for prior complaints.

13 **Section 6. Section 14-12.1 of the Land Development Code (being Ord. No. 2011-**
14 **37, § 15, as amended) is amended to add the following definitions:**

15 CANNABIS CONSUMPTION AREA

16 An area where cannabis products may be served and consumed by smoking, vaping, or
17 ingesting, provided that alcohol cannot be sold or consumed in a cannabis consumption area.

18 CANNABIS ESTABLISHMENT

19 A broad term that includes a cannabis testing laboratory, a cannabis manufacturer, a
20 cannabis producer, a cannabis retailer, a cannabis research laboratory, a vertically integrated
21 cannabis establishment, a cannabis producer microbusiness, or an integrated cannabis
22 microbusiness.

23 CANNABIS MANUFACTURING, LIGHT

24 A use that involves compounding, blending, extracting, infusing, packaging, or otherwise
25 preparing a cannabis product using nonvolatile solvents, alcohol, or carbon dioxide, or without

1 using solvents.

2 CANNABIS MANUFACTURING, HEAVY

3 A use that involves compounding, blending, extracting, infusing, packaging, or otherwise
4 preparing a cannabis product using volatile solvents or other methods that are outside the scope of
5 light cannabis manufacturing.

6 CANNABIS PRODUCER

7 A business conducted by a person licensed to cultivate more than two hundred (200) mature
8 cannabis plants, including the planting, growing, harvesting, drying, curing, grading, or trimming
9 of cannabis.

10 CANNABIS PRODUCER MICROBUSINESS

11 A small business conducted by a person licensed to cultivate up to two hundred (200)
12 mature cannabis plants at a single location, including the planting, growing, harvesting, drying,
13 curing, grading, or trimming of cannabis.

14 CANNABIS PRODUCT

15 A product that is or that contains cannabis or cannabis extracts, including edible or topical
16 products that may also contain other ingredients.

17 CANNABIS RESEARCH LABORATORY

18 A facility that produces or possesses cannabis or cannabis products for the purpose of
19 studying cannabis cultivation, characteristics, or uses.

20 CANNABIS TESTING LABORATORY

21 A facility where cannabis products are sampled, collected, and tested.

22 COMMERCIAL CANNABIS ACTIVITY

23 Cultivating, producing, possessing, manufacturing, storing, testing, researching, labeling,
24 selling, purchasing for resale, or consigning cannabis products (but excluding personal growing
25 and use, medical cannabis program activities, and cannabis training and education programs).

1 COMMERCIAL CANNABIS RETAILER

2 A business conducted by a person that is licensed to sell cannabis products directly to
3 consumers.

4 INTEGRATED CANNABIS MICROBUSINESS

5 A person who is licensed as an integrated cannabis microbusiness and authorized to
6 conduct one or more of the following:

- 7 1. production of cannabis at a single licensed premises; provided that the person shall
8 not possess more than two hundred (200) total mature cannabis plants at any one time;
- 9 2. manufacture of cannabis products at a single licensed premises;
- 10 3. sales and transportation of only cannabis products produced or manufactured by
11 that person;
- 12 4. operation of only one retail establishment; or
- 13 5. couriering of cannabis products to qualified patients, primary caregivers or
14 reciprocal participants, or directly to consumers.

15 VERTICALLY INTEGRATED CANNABIS ESTABLISHMENT

16 A person who is licensed as a vertically integrated microbusiness and authorized to act as
17 any of the following:

- 18 1. a cannabis courier;
- 19 2. a cannabis manufacturer;
- 20 3. a cannabis producer; or
- 21 4. a cannabis retailer.

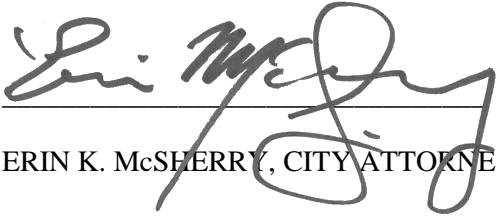
22 **Section 6. Effective Date.** This ordinance shall take effect immediately upon
23 adoption.

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1 APPROVED AS TO FORM:

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A handwritten signature in black ink, appearing to read "Erin McSherry", is written over a horizontal line. The signature is cursive and extends below the line.

4 ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/2021/Bills/2021-19 Cannabis Zoning*