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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 Specific Use	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*	P* ₂	
<u>Cannabis consumption area</u>																						(I)
<u>Cannabis manufacturing, heavy</u>															P	P	P					(I)
<u>Cannabis manufacturing, light</u>															<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			(I)
<u>Cannabis producer microbusiness (200 mature plants max.), indoor growing only</u>																						

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<u>Extra small</u> (2,500 sq. ft. canopy max.)											<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>(H), (I)</u>
<u>Small (2,501</u> <u>- 10,000 sq.</u> <u>ft. canopy)</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>(H),</u> <u>(I)</u>
<u>Medium</u> (10,001 - 22,000 sq. ft. canopy)											<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>(H),</u> <u>(I)</u>
<u>Large</u> (22,001 or more sq. ft. canopy)											<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>(H),</u> <u>(I)</u>
<u>Cannabis producer microbusiness (200 mature plants max.), outdoor growing</u>																								
<u>Extra small</u> (2,500 sq. ft. canopy max.)											<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>Small (2,501</u> <u>- 10,000 sq.</u> <u>ft. canopy)</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>

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<u>Medium</u> (10,001 - 22,000 sq. ft. canopy)										<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), (I)</u>
<u>Large</u> (22,001 or more sq. ft. canopy)										<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), (I)</u>
<u>Cannabis producer, indoor growing only</u>																					
<u>Extra small</u> (2,500 sq. ft. canopy max.)										<u>S</u>				<u>P</u>	<u>P</u>	<u>S</u>					<u>(H), (I)</u>
<u>Small</u> (2,501 - 10,000 sq. ft. canopy)										<u>S</u>				<u>P</u>	<u>P</u>	<u>S</u>					<u>(H), (I)</u>
<u>Medium</u> (10,001 - 22,000 sq. ft. canopy)										<u>S</u>				<u>P</u>	<u>P</u>	<u>S</u>					<u>(H), (I)</u>
<u>Large</u> (22,001 or more sq. ft. canopy)										<u>S</u>				<u>P</u>	<u>P</u>	<u>S</u>					<u>(H), (I)</u>

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<u>Cannabis producer, outdoor growing</u>																						
<u>Extra small</u> <u>(2,500 sq. ft.</u> <u>canopy max.)</u>												<u>S</u>				<u>S</u>	<u>S</u>	<u>S</u>				<u>(H), (I)</u>
<u>Small (2,501 -</u> <u>10,000 sq. ft.</u> <u>canopy)</u>												<u>S</u>				<u>S</u>	<u>S</u>	<u>S</u>				<u>(H), (I)</u>
<u>Medium</u> <u>(10,001 -</u> <u>22,000 sq. ft.</u> <u>canopy)</u>												<u>S</u>				<u>S</u>	<u>S</u>	<u>S</u>				<u>(H), (I)</u>
<u>Large (22,001</u> <u>or more sq. ft.</u> <u>canopy)</u>												<u>S</u>				<u>S</u>	<u>S</u>	<u>S</u>				<u>(H), (I)</u>
<u>Cannabis research</u> <u>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</u> <u>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</u> <u>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>(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*. No commercial cannabis activity, including
9 cannabis production, may be conducted as a *home occupation*.

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

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

16 (5) Development Standards.

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

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

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

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

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

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(7) *Urban Farm, Roof Level*

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

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

(8) *Aquaculture, Aquaponics and Hydroponics.*

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

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

(9) *Farm Stands.*

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

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

(10) *Cannabis Producer and Cannabis Producer Microbusiness*

(a) *Cannabis Producers and Cannabis Producer Microbusinesses* are permitted as provided in Table 14-6.1-1.

(b) *Cannabis Producers and Cannabis Producer Microbusinesses* must comply with applicable State regulations and licensure, in addition to applicable provisions of the SFCC 1987.

1 ([10]11) Screening and Buffering.

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

7 (b) Any material or equipment stored outdoors within
8 a *residential* or *commercial* zoning district shall be surrounded by a wall or fence or vegetative
9 screen not less than six (6) feet high, as may be necessary, to screen such material or equipment
10 from view from any public street or public open space.

11 ([11]12) Maintenance and Operation. Urban farms, cannabis producers,
12 and cannabis producer microbusinesses shall be used and maintained in such a manner in which
13 at no time shall they constitute a nuisance or hazard to the surrounding neighborhood.

14 ([12]13) Soil Safety. All urban farms, cannabis producers, and cannabis
15 producer microbusinesses using conditioned soil will be required to comply with the New
16 Mexico Soil and Water Conservation Act, Sections 73-20-25 through 73-20-48 NMSA 1978.

17 ([13]14) Composting.

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

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

1 (c) Maximum Height:

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

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

8 (d) *Setbacks*:

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

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

15 ([14]15) Water.

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

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

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

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

25 (iv) Well water from existing on-site wells, provided that

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

6 (v) Municipal water system.

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

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

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

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

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

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

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

23 (f) The use of other water efficient technologies and water
24 management best practices, such as use of ollas or other water-holding materials, are allowed.
25 The *land use director* shall provide all urban farms with city-authored water efficient irrigation

1 guidelines and low-water use landscape literature, such as landscape irrigation design standards.

2 (~~15~~16) Abandonment.

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

6 (b) Any property used for agricultural purposes pursuant to this
7 section shall be cleared and restored to the state in which it existed prior to commencement of
8 the agricultural use. The property owner shall remove from the property all *farm*
9 *structures* within ninety (90) days after the date the agricultural use is discontinued. Site clearing
10 shall consist of:

11 (i) Physical removal of all *farm structures*, farm equipment
12 and machinery; and

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

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

18 (c) If the applicant fails to remove *farm structures*, farm equipment,
19 and farm machinery in accordance with the requirements of this Subsection 14-6.2(H)(~~15~~16)
20 within ninety (90) days of the date the agricultural use is discontinued, the *land use director* shall
21 proceed with enforcement actions as provided for in Section 14-11.

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

24 **(I) Cannabis Establishments**

25 (1) Applicable law. *Cannabis establishments* are subject to applicable

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

8 (2) Enforcement. A person who fails to adhere to the provisions of Chapter
9 14 of the SFCC shall be subject to the enforcement provisions set forth in Sections 1.3 and 14-11
10 SFCC 1987 and all other legal remedies and enforcement actions available under the law.

11 (3) Permitted Uses. *Cannabis establishments* are permitted only as set forth
12 in Table 14-6.1-1 and this subsection. A *vertically integrated cannabis establishment* or *integrated*
13 *cannabis microbusiness* is permitted only if all of the uses encompassed by the license are permitted
14 in the zoning district.

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

19 (5) Retail Establishments.

20 (a) Density limitation. A new *commercial cannabis retailer* is not a
21 permitted use if the new *commercial cannabis retailer* would be located within a four hundred
22 (400) foot distance of a *commercial cannabis retailer* primary entrance. The distance shall be
23 measured from the primary entrance of the business premise to the primary entrance of the next
24 business premise.

25 (b) Operating hours. The hours of operation for a *commercial*

1 *cannabis retailer* are limited to 7:00 a.m. to 12:00 a.m. (midnight).

2 (6) Odors and Ventilation. All *cannabis establishments* must comply with
3 applicable state and *city* laws and regulations concerning odors and ventilation, including building
4 and fire codes. Cannabis producers, cannabis producer microbusinesses, and cannabis
5 manufacturers must use industry standard techniques to minimize odorous, toxic, or noxious matter,
6 such as activated carbon filtration and regular maintenance of HVAC systems. Cannabis producers,
7 cannabis producer microbusinesses, cannabis manufacturers, and cannabis consumption areas must
8 have an odor control plan approved by the City.

9 (7) Safety and Security. All *cannabis establishments* must comply with state
10 law and regulations concerning safety and security, in addition to applicable provisions of the SFCC
11 1987.

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

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

15 (B) Permitted Accessory Uses and Structures

16 (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,
17 C-1, C-4, and HZ Districts (Ord. No. 2014-31 § 14)

18 (a) The following *accessory* uses and *structures* are permitted in the
19 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:
20 (Ord. No. 2013-16 § 31)

21 (i) *home occupations*, as provided for in Subsection 14-
22 6.3(D)(2);

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

24 (iii) private *garages*;

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

1 (v) children's play areas and play equipment;
2 (vi) private barbeque pits and private swimming pools;
3 (vii) *accessory dwelling units* as regulated in Subsection 14-
4 6.3(D)(1);

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

7 (ix) *accessory structures* of a permanent, temporary or
8 portable nature such as coverings not constructed of solid building materials, including inflatable
9 covers over swimming pools and tennis courts, and such other *accessory structures* that exceed
10 thirty (30) inches in height from the average ground elevation.

11 (b) All *accessory* uses and *structures* allowed under Subsection 14-
12 6.3(B)(2)(a) shall:

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

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

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

19 (c) The following activities are prohibited within *residentially zoned*
20 *districts*:

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

24 A. Commercial or industrial vehicles include:
25 1. vehicles requiring a commercial driver's

1 license to operate;

4 pumper trucks;

8 tractors)

10 equipment;

13 related to an active construction *permit*); or

15 manufacturer for *business* purposes.

2. tour buses or school buses;

3. concrete mixer trucks or concrete

4. towing vehicles;

5. earthmoving or *grading* equipment;

6. trailers or tractors (except lawn trailers or

7. motorized construction or agricultural

8. cranes;

9. roll-off trash containers (except as

10. any other vehicles designed by the

16 B. Commercial or industrial vehicles do not include:

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

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

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

24 (iii) Storage of *mobile homes* or commercial shipping
25 containers;

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

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

5 (vi) Storage or parking within any portion of a *street*
6 *yard* other than a driveway of a noncommercial vehicle used for storage of goods, materials or
7 equipment other than those items considered to be a part of the vehicle or essential for its immediate
8 use; ~~and~~

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

11 (viii) The conduct of any *business* or *home occupation* as a
12 *cannabis establishment* or for a *commercial cannabis activity*.

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

15 (D) Standards for Specific Accessory Uses

16 (2) Home occupations

17 (a) Purposes

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

25 (b) Standards

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

4 (c) General Standards

5 (i) The *home occupation* shall involve the primary sale of
6 goods or services in connection with the *home occupation* , including: 1) goods that are prepared,
7 produced or grown on the *premises* ; 2) services that are developed on the *premises* and provided
8 on or off the *premises* ; 3) the sale of goods that are not produced on the *premises* and that are
9 only distributed off the *premises* ; or 4) repair services that take place solely within the home.

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

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

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

19 (v) Except for on-street parking, as set forth in this section,
20 a *home occupation* shall be completely contained within the *property* lines of the lot on which
21 the *home occupation* is located. A *home occupation* shall be in compliance with the performance
22 standards set forth in Section 10-4 SFCC (General Environmental Standards); not produce any
23 offensive noise, vibration, smoke, dust, odors, heat, gas, glare or electrical interference; or
24 otherwise create a risk to health, safety or *property* of residents and occupants of adjacent and
25 neighboring *properties* . The storage of firearms, ammunition, fireworks or similar explosives

1 for sale or service is prohibited. Mechanical or electrical equipment that is incidental to the *home*
2 *occupation* may be used if it does not create visible or audible interference in radio, computer or
3 television receivers or cause fluctuation in voltage of the premises or neighboring premises.
4 Depending upon the nature of the *home occupation* , the land use director may require proof of
5 compliance with these restrictions prior to issuance of a *business* registration.

6 (vi) *Employees* , customers, clients or deliveries shall not
7 enter the *premises* between the hours of 7:00 p.m. and 8:00 a.m. weekdays and 7:00 p.m. and
8 10:00 a.m. weekends. Depending on the nature of the *home occupation* , the *land use*
9 *director* may reduce the hours of operation. Deliveries are limited to vehicles that do not exceed
10 eleven (11) feet in height and twenty (20) feet in length.

11 (vii) No *cannabis establishment* or *commercial cannabis*
12 *activity* may be conducted as a *home occupation*.

13 (d) Structural Standards

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

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

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

3 (e) Parking Standards

4 (i) Depending on the nature of the *home occupation*, the
5 following parking spaces shall be provided on the *lot* : 1) if there are no *employees* who reside
6 off the *premises* and customers or clients do not come to the *premises*, only parking for
7 the *dwelling unit* is required; 2) if there are no *employees* who reside off the premises and
8 customers or clients come to the *premises* , at least one parking space shall be provided on the
9 lot for every four hundred (400) square feet of the *gross floor area* of the *premises* used for
10 the *home occupation*, in addition to that required for the *dwelling unit*; 3) if there are
11 any *employees* who reside off the *premises* and customers or clients do not come to the *premises*,
12 at least one parking space shall be provided on the *lot* for every *employee* simultaneously
13 working, in addition to that required for the *dwelling unit*; 4) if there are *employees* who reside
14 off the *premises* and customers or clients come to the *premises*, at least one parking space shall
15 be provided on the *lot* for every *employee* simultaneously working and at least one parking space
16 shall be provided on the *lot* for every four hundred (400) square feet of the *gross floor area* of
17 such *premises* used for the *home occupation* in addition to that required for the *dwelling unit*;

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

24 (f) Other Requirements; Inspections

25 (i) The *home occupation* shall comply with all other

1 applicable codes, including without limitation the currently adopted fire and building codes, the
2 federal American disabilities act and the *city's* wastewater requirements. Depending on the
3 location of the *home occupation*, private covenants enforceable by those governed by the
4 covenants may apply.

5 (ii) Inspections by the *city* are required prior to issuance of
6 the *business* registration for the *home occupation* only for those *home occupations* in which the
7 following occur: 1) *employees* reside off the *premises* come to the *premises*; 2) customers or
8 clients come to the *premises*; or 3) goods for sale are prepared, produced, grown or stored on
9 the *premises*. The *city* reserves the right to inspect all *home occupations* for code compliance at
10 such times as the *city* receives a complaint or has reason to believe the *city's* codes may be
11 violated.

12 (g) Notice; Registration; Violations; Complaints; Variances;
13 Appeals

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

1 restrictions, if any, shall be placed on it.

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

6 (iii) A person shall not conduct a *home occupation* in
7 violation of this section. In addition to any other remedies available, the *city* may revoke
8 the *business* registration for the *home occupation* or the *certificate of occupancy* for
9 any *building* in which a *home occupation* is being conducted in violation of this section. A person
10 who fails to comply with the provisions of this section is subject to a penalty as provided
11 in Article 14-11.

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

20 **Section 5. Section 14-12.1 of the Land Development Code (being Ord. No. 2011-**
21 **37, § 15, as amended) is amended to add the following definitions:**

22 CANNABIS CANOPY AREA

23 The surface area utilized to produce cannabis plants calculated in square feet and measured
24 using clearly identifiable boundaries of all area(s) that will contain cannabis plants at any point in
25 time, including all of the space(s) within the boundaries. Canopy may be noncontiguous, but each

1 unique area included in the total canopy calculation shall be separated by an identifiable boundary,
2 which includes: interior walls, shelves, greenhouse walls, hoop house walls, garden benches,
3 hedgerows, fencing, garden beds, or garden plots. If mature plants are being cultivated using a
4 shelving system, the surface area of each level shall be included in the total canopy calculation.

5 CANNABIS CONSUMPTION AREA

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

8 CANNABIS ESTABLISHMENT

9 A broad term that includes a cannabis testing laboratory, a cannabis manufacturer, a
10 cannabis producer, a cannabis retailer, a cannabis research laboratory, a vertically integrated
11 cannabis establishment, a cannabis producer microbusiness, or an integrated cannabis
12 microbusiness.

13 CANNABIS MANUFACTURING, LIGHT

14 A use that involves compounding, blending, extracting, infusing, packaging, or otherwise
15 preparing a cannabis product using nonvolatile solvents, alcohol, or carbon dioxide, or no solvents.

16 CANNABIS MANUFACTURING, HEAVY

17 A use that involves compounding, blending, extracting, infusing, packaging, or otherwise
18 preparing a cannabis product using volatile solvents or other methods that fall outside the scope of
19 light cannabis manufacturing.

20 CANNABIS PRODUCER

21 A business conducted by a person licensed to cultivate cannabis, including the planting,
22 growing, harvesting, drying, curing, grading, or trimming of cannabis, provided that the person
23 possesses two hundred and one (201) total mature cannabis plants or more at any one time.

24 CANNABIS PRODUCER MICROBUSINESS

25 A small business conducted by a person licensed to cultivate cannabis at a single

1 location, including the planting, growing, harvesting, drying, curing, grading, or trimming of
2 cannabis, provided that the person may not possess more than two hundred (200) total mature
3 cannabis plants at any one time.

4 CANNABIS PRODUCT

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

7 CANNABIS RESEARCH LABORATORY

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

10 CANNABIS TESTING LABORATORY

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

12 COMMERCIAL CANNABIS ACTIVITY

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

16 COMMERCIAL CANNABIS RETAILER

17 A business conducted by a person that is licensed to sell cannabis products directly to
18 consumers who are twenty-one years of age or older.

19 INTEGRATED CANNABIS MICROBUSINESS

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

- 21 1. production of cannabis at a single licensed premises; provided that the person shall
22 not possess more than two hundred total mature cannabis plants at any one time;
- 23 2. manufacture of cannabis products at a single licensed premises;
- 24 3. sales and transportation of only cannabis products produced or manufactured by
25 that person;

- 1 4. operation of only one retail establishment; and
2 5. couriering of cannabis products to qualified patients, primary caregivers or
3 reciprocal participants or directly to consumers.

4 VERTICALLY INTEGRATED CANNABIS ESTABLISHMENT

5 A person that is authorized to conduct one or more of the following at any one time:

- 6 1. a cannabis courier;
7 2. a cannabis manufacturer;
8 3. a cannabis producer; and
9 4. a cannabis retailer.

10 **Section 6. Effective Date.** This ordinance shall take effect immediately upon
11 adoption.

12 APPROVED AS TO FORM:

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15 _____
ERIN K. McSHERRY, CITY ATTORNEY

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