

**VILLAGE OF TAOS SKI VALLEY
ORDINANCE NO. 2022-71**

AN ORDINANCE OF THE VILLAGE OF TAOS SKI VALLEY ADOPTING REGULATIONS REGARDING THE SALE, PRODUCTION, DISTRIBUTION, MANUFACTURING, CULTIVATION AND USE OF CANNABIS IN THE VILLAGE; ESTABLISHING A LOCAL CANNABIS BUSINESS LICENSE; CREATING RULES REGARDING THE ISSUANCE OF A LOCAL CANNABIS BUSINESS LICENSE; ESTABLISHING REGULATIONS FOR THE USE OF CANNABIS ON PUBLIC PROPERTY AND IN PUBLIC PLACES; LIMITING THE SALE, PRODUCTION, MANUFACTURE AND CULTIVATION OF CANNABIS AND CANNABIS INFUSED PRODUCTS TO CERTAIN ZONE DISTRICTS; LIMITING GROWING AND CULTIVATION IN RESIDENTIAL AREAS TO PERSONAL USE ONLY; AND ENACTING A SUNSET PROVISION

WHEREAS, the Council of the Village of Taos Ski Valley finds that the retail sale, production, manufacturing, distribution, and cultivation of cannabis and cannabis infused products may be harmful to the public health, safety and welfare if not locally regulated based upon “time, place, and manner” restrictions;

WHEREAS, local governments are authorized by the State of New Mexico to regulate “time, place, and manner” in relation to cannabis as set forth in the New Mexico Cannabis Regulation Act, as amended;

WHEREAS, the Village Council finds and declares that cannabis issues are a matter of local concern and municipal interest, recognizing the Village’s police and zoning powers under NMSA Sections 3-17-1, 3-18-1, and 3-21-1.

WHEREAS, this Ordinance is designed to protect the public health, safety and welfare from the potentially adverse effects of cannabis, while allowing for its sale, production, manufacturing, distribution, cultivation, and use in accordance with New Mexico law and the Village’s local regulatory authority.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF TAOS SKI VALLEY AS FOLLOWS:

Section I. Purpose.

This Ordinance adopts local regulations, in addition to those in the Village’s Zoning Regulations, Ordinance No. 17-30, regarding the sale, production, distribution,

manufacture, cultivation and use of recreational and medical cannabis within the Village of Taos Ski Valley.

Section II. Definitions.

The following definitions apply throughout this Ordinance and supplement the definitions provided in the New Mexico Cannabis Regulation Act, as amended.

(1) "Adjacent grounds" means all areas that the licensee has an exclusive right to possess by virtue of his ownership or lease, which are outside the enclosed licensed premises, but adjacent and contiguous to the licensed premises, including but not limited to porches, patios, decks, entryways, lawns, parking lots, and similar areas and all fixed and portable things in those areas, including but not limited to lights, signs, speakers, and security devices.

(2) "Approve a business license" means to find that the requirements for a license have been met, but does not give the applicant the right to operate a cannabis establishment in the Village until the license is issued. This standard applies even where the applicant has already obtained a State of New Mexico cannabis license.

(3) "Cannabis" except where the context clearly indicates otherwise, means growing cannabis plants, harvested cannabis in any state, and cannabis infused products of all kinds, including for medical use, and as that term is defined in the New Mexico Cannabis Act. For the purpose of this Ordinance, the term cannabis and medical cannabis are interchangeable.

(4) "Cannabis Establishment" means an entity licensed by the Village pursuant to this Ordinance and may include any of the following:

(a) A single retail location where the licensee may sell cannabis and cannabis infused products to consumers, including edibles. It includes both recreational and medical cannabis.

(b) An offsite manufacturing and production facility at which the licensee may manufacture and produce cannabis and cannabis infused products, which are not sold on location but are sold or transferred to consumers at other locations. It includes both recreational and medical cannabis.

(c) A cultivation facility at which the licensee may grow or cultivate cannabis and cannabis infused products, which are not sold on location but are sold or transferred to consumers at other locations. It includes both recreational and medical cannabis.

(d) A combined retail, production, and manufacturing location where the licensee may produce and manufacture cannabis and cannabis infused products, including edibles,

and also sell these products to consumers at the same location. It includes both recreational and medical cannabis.

(e) A combined retail, production, manufacturing and cultivation/growing location, where the licensee may cultivate and grow cannabis, produce and manufacture cannabis, including cannabis infused products and edibles, and also sell these products to consumers at the same location. It includes both recreational and medical cannabis.

(5) "Cannabis license" means any of the licenses described in this Ordinance, as amended.

(6) "Character and record" includes all aspects of a person's character and record, including but not limited to moral character, criminal record, serious traffic offenses, record of previous sanctions against liquor licenses, gambling licenses, or cannabis licenses, which the person owned, in whole or in part, or in which the person served as a principal, manager, or employee; education, training, experience, civil judgments, truthfulness, honesty, and financial responsibility.

(7) "Complaint" means a document filed with the Village seeking sanctions against a cannabis business license.

(8) "Contiguous" means located within the same building as the cannabis establishment, located in a separate building on the same parcel of land as the cannabis establishment, or located in a separate building on a separate parcel of land that is adjacent to and shares at least fifty percent (50%) of a common lot line with the lot on which the cannabis establishment is located.

(9) "Employee" means the licensee's or proposed licensee's employees.

(10) "Harm" or "harmful to public health, safety or welfare" means any matter that adversely affects the health, safety, or welfare of any person or group of persons within the Village or any adjacent community, including but not limited to matters related to crime, lighting, security, traffic, graffiti, litter, parking, and noise. A showing of actual harm shall not be required and a showing of potential or threatened harm shall be sufficient. Any violation of any criminal statute or ordinance is per se substantially harmful to public health, safety, and welfare, without any showing of actual or threatened harm. The mere possession, advertising, sale, cultivation, processing, smoking, or ingestion of cannabis or cannabis infused products, when performed lawfully, shall not in itself be considered harmful to public health, safety, and welfare.

(11) "In public" means any area that the public may generally enter, including any business open to the public. The term includes the licensed premises and the adjacent grounds if the cannabis establishment has not also obtained a consumption license from the State of New Mexico. The term includes persons in motor vehicles located in a public

place. It also includes property owned or leased by the Village, State or Federal government.

(12) "Issue a business license" means to finalize the Village's local license after a previous approval of the license, and may or may not occur after approval of the license, depending on any completions, inspections, approvals, or conditions that the Village may require to be satisfied before issuance. Issuance gives the licensee the ability to operate a cannabis establishment, provided that the licensee also obtains a valid State of New Mexico license.

(13) "License" under this Ordinance means a local business license issued by the Village of Taos Ski Valley for the sale, production, manufacturing, cultivation, or distribution of cannabis or cannabis infused products.

(14) "Licensee" means the person or entity holding a local Village cannabis business license under this Article.

(15) "Licensed premises" means the area inside a building in which the cultivation, manufacture, processing, infusion, possession, weighing, display, packaging, sale, and exchange of cannabis and cannabis infused products is licensed under this Ordinance.

(16) "Operate" or "operation" means the matters described in this Ordinance, as amended.

(17) "Person" means any natural person and any entity.

(18) "Principal" means:

(a) In the case of any entity, including any general or limited partnership, corporation, limited liability company, or other entity: any person who has a five percent (5%) or greater interest in the ownership of the entity, and any person who has the day-to-day authority to or actually does manage the entity's finances.

(b) In the case of a corporation: the persons described as a representative or applicant for any entity and the president, vice president, secretary, chief executive officer, chief financial officer, and any person who holds five percent (5%) or more of the capital stock of the corporation.

(c) In the case of a limited liability company: the persons described as a representative or applicant for any entity and any member of the limited liability company.

(d) In the case of a sole proprietorship, the individual owner.

(19) "Public property" means property that is occupied, owned, controlled or operated by the Federal, State, or Village government.

Section III. General Requirements.

(1) It shall be unlawful to use, sell, manufacture, cultivate, produce or distribute cannabis on public property within the Village of Taos Ski Valley.

(2) Cannabis establishments shall not allow a person to consume cannabis on site, or on adjacent grounds, except as where authorized by the New Mexico Cannabis Regulation Act, as amended, including obtaining a consumption license, and in compliance with the Village's zoning regulations.

(3) Cannabis establishments shall provide for proper and secure disposal of all cannabis products and byproducts, and shall abide by the Village's regulations regarding rubbish and discharges into the municipal wastewater system.

(4) Cannabis establishments shall not emit fumes, dust, odors or vapors into the environment or disturb adjacent uses.

(5) Cannabis establishments shall not display or keep visible from outside the licensed establishment any cannabis products or paraphernalia.

Section IV. Establishing a Village Cannabis Business License.

This Ordinance establishes a local Village cannabis business license and distinct rules for the licensing of recreational cannabis and cannabis infused products within the Village of Taos Ski Valley. These local rules and regulations are in addition to licensing requirements established by the State of New Mexico and are necessary for the Village to initiate "time, place and manner" restrictions as authorized by the New Mexico Cannabis Regulation Act, as amended.

This Ordinance establishes the Village's local cannabis business license for the sale, production, distribution, cultivation of cannabis and cannabis infused products, within the Village's jurisdictional limits. The Village shall have the authority to grant or deny a local Village cannabis business license as set forth herein.

Section V. Requirements of the Village Cannabis Business License.

(1) The Village of Taos Ski Valley, as the local cannabis business licensing authority, shall have the following powers and authority:

(a) To issue, deny, or revoke a Village cannabis business license and renewals of the same, and where necessary, to conduct public hearings related thereto.

(b) To impose any sanctions on a Village cannabis business license, including revocation, upon its own authority and initiation, or in response to a complaint by any person for any violation by the licensee after investigation and a public hearing, at which the licensee shall be afforded an opportunity to be heard. Such hearings will allow for the presentation of evidence by the applicant and Village staff and will be followed by the adoption of formal findings and conclusions.

(c) To adopt application forms, fees, and submission requirements for a Village cannabis business license.

(2) No person or corporate entity may operate a cannabis establishment within the Village without first obtaining a Village cannabis business license.

(3) All licenses will be administered and approved by the Village provided that the applicant has met all conditions and requirements established herein, and paid the licensing fee of \$250.00.

(4) It is illegal to operate a cannabis establishment in the Village without first obtaining a local Village cannabis business license.

(5) Upon issuance, the Village's cannabis business license shall be displayed within the premises and be visible to public view.

Section VI. General Licensing Requirements.

In order to obtain a Village cannabis business license under this Ordinance, the applicant must demonstrate the following:

(1) The proposed licensed premises and adjacent grounds meet all requirements for issuance of a State of New Mexico cannabis license and all applicable laws and regulations.

(2) The applicant shows proof of a valid State of New Mexico cannabis license.

(3) The applicant has met all requirements, including payment of any applicable taxes and fees, both state and local.

(4) The applicant has obtained a separate Village business license for any other business activity that will also be operated on the licensed premises, and paid all applicable license fees.

(5) The premises and adjacent grounds are not licensed or operated as an establishment for the sale or service of alcohol beverages, or as a massage parlor, a dance hall, adult business, or an amusement facility.

- (6) The applicant has submitted an application for a Village cannabis business license, on the established forms, that the Village Clerk has determined is complete.
- (7) In the case of a retail cannabis establishment, the applicant has demonstrated that the proposed licensed premises is located on or within designated commercial zones. Any additional conditional use permit requirements required by the Village's zoning ordinances must be met. A combined retail and production, manufacturing or growing establishment is not allowed in a commercial zone.
- (8) In the case of a cannabis establishment that is manufacturing or producing cannabis or cannabis infused products, and even where combined with a retail cannabis establishment, the applicant has demonstrated that the proposed licensed premises is located on or within property zoned or used as industrial or light industrial.
- (9) In the case of a cannabis establishment that is cultivating or growing marijuana, the applicant has demonstrated that the proposed licensed premises is located on or within property zoned agricultural, except that where there is an indoor growing facility, using harsh chemicals or machinery, growing lights, hydroponics or other industrial type operations, a conditional use permit is required in the agricultural zone.
- (10) In the case of a cannabis establishment that is manufacturing, producing, or cultivating, and even where combined with a retail cannabis establishment, the applicant shows adequate water resources and applicable permits, as approved by the Village, or as required under the laws of the State of New Mexico.
- (11) The applicant must demonstrate that the location of the proposed licensed premises, and its distance from other licensed premises, meet any applicable regulations set forth in the Village's zoning regulations.
- (12) The applicant must demonstrate that the proposed licensed premises are not located within three hundred (300) feet of any public or private school or other childcare facility. The distances referred to in this paragraph are to be computed by direct measurement from the nearest property line of the land used for a school or campus, to the nearest portion of the lot that is the situs of the building that is proposed for a licensed premises.
- (13) The applicant agrees to operating hours not earlier than 9:00AM, nor later than 9:00PM.
- (14) All proposed licensed premises, adjacent grounds, and related parking facilities which are located on Federal land within the Village are required to abide by applicable Federal law.
- (15) The application for a Village cannabis business license must specify the type of cannabis establishment involved, whether retail, manufacturing, production, cultivation or a combination of these.

Section VII. Personal Requirements for the Village Cannabis Business Licensee

- (1) The applicant for a Village cannabis business license, principals, registered manager, and employees must meet all requirements under New Mexico State law.
- (2) The applicant, principals, registered manager, and employees must be at least twenty-one (21) years of age.
- (3) The applicant, principals, registered manager, and employees must all meet character and records requirements under New Mexico law.
- (4) The applicant, principals, registered manager, and employees hold valid occupational licenses and registrations as required by the State of New Mexico, including all applicable cannabis licenses.

Section VIII. Specific Requirements Regarding the Premises.

- (1) The proposed licensed premises are located in a fixed, permanent, non-portable building and are not located in a movable or mobile structure or in a vehicle, nor is it operated as a home occupation under Village regulations.
- (2) The size of the premises is compatible and compliant with the applicable zoning district limitations regarding square footage.
- (3) The applicant must have sole legal control of the proposed licensed premises at the time the application is submitted, under a lease that is presently in effect or through present ownership of the proposed licensed premises as shown by a deed or other instrument of record. The applicant must show proof that the lessor has agreed to use of the premises as a cannabis establishment.
- (4) All storage, dispensing, manufacture, production, and cultivation activities shall be conducted indoors in a building meeting the requirements of Subsection (1).
- (5) Plants, products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or right-of-way.
- (6) The proposed licensed premises have a suitable limited access area where the cultivation, display, storage, processing, weighing, handling, and packaging of cannabis and cannabis infused products occurs, which is posted "employees only," and is separated from the areas accessible to the public by a wall, counter, or some other substantial barrier designed to keep the public from entering the area.
- (7) The applicant has submitted a security plan for the proposed licensed premises, which has been inspected and approved by the Village's Police Department or Building Official, and showing at least the following minimum security measures:

(a) All doors, windows and other points of entry have secure and functioning locks;

(b) A locking safe or enclosed secured storage located inside the proposed licensed premises in which any cannabis and cannabis infused products will be secured when the licensed premises are not open to the public;

(c) If the licensed premises are connected by any passage or entryway to any other premises, there is a door between the two (2) premises that can be locked from the licensee side and cannot be opened from the other side;

(d) A professionally monitored burglar alarm system that detects unauthorized entry of all doors, windows and other points of entry to the proposed licensed premises; and

(e) All licensing requirements established by the State of New Mexico.

(8) The proposed licensed premises and adjacent grounds comply with all zoning, health, building, plumbing, mechanical, fire, and other codes, statutes, and ordinances, as shown by completed inspections and approvals from the Village's Building Official.

(9) The proposed licensed premises and adjacent grounds of the licensed premises will be operated in a manner that does not cause any substantial harm to public health, safety and welfare.

(10) The proposed licensed premises are equipped with a ventilation system with carbon filters sufficient in type and capacity to eliminate cannabis odors emanating from the interior to the exterior discernible by a reasonable person, including to any public property or right-of-way within the Village. The ventilation system must be inspected and approved by the Village Building Official.

(11) The proposed licensed premises are located in a building that does not share any doors, windows, air passages, vents, ducts or any heating, ventilation, air conditioning, or air handling equipment or structures with any other residential building.

(12) Walls, barriers, locks, signs and other means are in place to prevent the public from entering the area of the proposed licensed premises utilized for cultivation or production and manufacturing.

(13) No portion of the building in which the proposed licensed premises are located is utilized as a residence.

(14) The proposed licensed premises must ensure that the ventilation system, air filtration, building screening requirements, necessary security apparatus and lighting are all compatible with neighboring businesses and adjacent uses.

(15) Every licensee and its principals, registered manager, and employees have a continuing duty to ensure that the requirements of this Section continue to be met after the license is issued and at all times that the license remains in effect.

(16) The licensee abides by all Village ordinances regarding signage, land use and zoning, water service, lighting, and wastewater discharge.

Section IX. Changes to License.

(1) No licensee shall make any of the following major changes without first obtaining the written approval of the Village:

(a) Any transfer of the license or any ownership interest in the licensee entity or license.

(b) Any change in location of the licensed premises.

(c) Any change in the licensee's principals.

(d) Any change in the structure, walls, doors, windows, ventilation, plumbing, electrical supply, floor plan, footprint, elevation, operation, operational plan, patios, decks, safe or vault, locks, surveillance system, doors, window coverings, or security system at the licensed premises.

(e) Any material change to the adjacent grounds, including but not limited to lighting, parking, and traffic flow.

Section X. Cultivation and Growing for Personal Use.

(1) Individuals may possess, cultivate and grow cannabis in their residence, including in a residential zoning district, but only for their personal use and subject to the following limitations as established under the New Mexico Cannabis Regulation Act, as amended:

(a) An individual must be at least twenty-one (21) years of age.

(b) It is unlawful to grow, cultivate, or process more than the designated number of cannabis plants per person, and per residence set forth in the New Mexico Cannabis Regulation Act, as amended, and any other applicable laws of the State of New Mexico.

(c) A residence shall not emit cannabis odors of any kind.

(d) Any growing or cultivation of cannabis products for personal use shall not be visible to the public.

(e) Any growing, cultivation or production of cannabis or cannabis infused products for personal use shall not be sold or transferred to third parties for future sale.

(f) No cannabis sale, production, distribution, manufacturing or cultivation shall be allowed in a residential zone district, except for personal use and as specifically set forth herein.

Section XI. Granting the License

(1) The Village cannabis license shall be granted by formal approval of Village staff upon meeting the requirements set forth in herein.

Section XII. Revocation of License.

(1) Any person in violation of a local Village cannabis license as set forth herein is subject to revocation for violations of this Ordinance, other Village ordinances, or New Mexico State or Federal laws.

(2) If the Village finds that there is probable cause that a violation has occurred, or if a formal complaint is received by Village staff or a third party, the Village will immediately investigate the alleged violation.

(3) Upon evidence of a violation, the Village shall notify the licensee in writing of the specific allegations and the date of hearing scheduled for the Village Council to consider the revocation, formal complaint, or any other appropriate action involving the license.

(4) During the license revocation hearing, the Village Council will hear evidence from Village staff and the licensee. Each party will be given an opportunity to be heard, to present witnesses, to cross examine witnesses, and to present evidence and exhibits in support of his or her case. At the conclusion of the hearing, the Village Council will make formal findings as to the reasons for revoking the license or allowing it to remain in place with conditions.

(5) If a cannabis license issued under this Ordinance is revoked, the licensee must cease doing business immediately, or as prescribed by the Village.

Section XIII. Penalties Provision.

To the extent permitted by law, any violation of this Ordinance will result in a citation with penalties of up to \$300 for each separate violation, and with possible cumulative penalties for each day a violation continues.

Section XIV. Repeal of Conflicting Provisions.

All Village ordinances or parts of ordinances in conflict with the provisions of this Ordinance, or any part thereof, are hereby superseded and repealed.

Section XV. Severability Clause.

If any court of competent jurisdiction or the State of New Mexico finds any provision of this Ordinance to be unlawful, this provision shall be severable and the remainder of this Ordinance shall remain in full force and effect.

Section XVI. Publication, Effective Date and Sunset Provision.

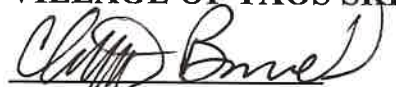
This Ordinance will shall be in full force and effect after its adoption, approval, and publication as provided by law. .

This Ordinance is set to expire on January 31, 2022, recognizing that it involves a novel issue and an area of law that remains unestablished in the State of New Mexico. In addition, Federal law prohibits the legalization of cannabis to date, and this Ordinance was created solely in response to passage of the New Mexico Cannabis Regulation Act, which legalizes the use, retail sale, cultivation, manufacture, production and distribution of recreational cannabis in the State.


Prior to its scheduled expiration, the Village Council may enact amendments or approve a second adoption of this Ordinance, either partially or in its entirety.

PASSED, APPROVED AND ADOPTED THIS 9th **day of** September, 2021.

VILLAGE OF TAOS SKI VALLEY, NEW MEXICO


Christof Brownell, Mayor

ATTEST:


Ann Wooldridge, Village Clerk

