

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING
July 30, 2021

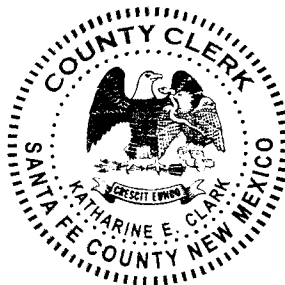
Henry Roybal, Chair - District 1 [virtually]
Anna T. Hamilton, Vice Chair - District 4
Rudy Garcia - District 3
Anna Hansen - District 2
Hank Hughes - District 5

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 94

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SANTA FE COUNTY

SPECIAL MEETING

BOARD OF COUNTY COMMISSIONERS

July 30, 2021

1. A. This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 1:10 p.m. by Vice Chair Anna Hamilton in the County Commission Chambers, historic John Gaw Meem Building, 102 Grant Avenue, Santa Fe, New Mexico.

The meeting was conducted in a hybrid format with both in-person and Webex participation.

Commissioner Roybal joined the meeting via Webex and Commissioner Hamilton assumed the duties of Chair

B. Roll Call

Roll was called by County Clerk Katharine Clark and indicated the presence of a quorum as follows:

Members Present:

Commissioner Henry Roybal, Chair [telephonically]
Commissioner Anna Hamilton, Vice Chair
Commissioner Rudy Garcia
Commissioner Anna Hansen
Commissioner Hank Hughes

Members Excused:

None

C. Approval of Agenda

County Attorney Shaffer announced there were no changes to the agenda. Upon motion by Commissioner Hansen and second by Commissioner Hughes, and following unanimous voice vote, the agenda was approved as published.

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2. **PUBLIC HEARING ON PROPOSED ORDINANCE**

A. **Ordinance No. 2021-03, an Ordinance Amending the Santa Fe County Sustainable Land Development Code ("SLDC"), Ordinance No. 2016-9, to Enact Comprehensive, Countywide Zoning and Other Regulations for Cannabis, Including Cannabis Establishments, Other Cannabis Businesses, and Personal Cultivation and Production of Cannabis and Cannabis Products; Amending and Restating Sections 10.6.2 and 10.22 of the SLDC in Their Entirety; and Amending Appendix A, Part 2, Definitions, of the SLDC to Delete and Add Cannabis Related Definitions**

[Exhibit 1: Updated Ordinance Draft, dated 7/22/2021; Exhibit 2: New York Times Article, dated 12/19/2018; Exhibit 3: Denver Public Health Article on Cannabis Odor, October 2019; Exhibit 4: The Pipeline Article on Cannabis Odor, 2/11/2019; Exhibit 5: Three Public Comments; Exhibit 6: Final Redraft of the Ordinance]

PENNY ELLIS-GREEN (Growth Management Director): Thank you, Madam Chair, Commissioners. In April of this year the legislature enacted and the governor signed the Cannabis Regulation Act into law. The new Cannabis Control Division is in the process of drafting regulations in accordance with that act.

The act includes a section on local control and Section 12 of the act empowers local jurisdictions such as the County to adopt time, place, and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act, including rules that reasonably limit the density of licenses and operating times consistent with neighborhood uses.

Staff is initiating an amendment to the SLDC to establish comprehensive countywide zoning and other regulations related to cannabis. In doing so we are aware that we're not writing on a clean slate. Instead, the existing code has regulations concerning medical cannabis and that is in Section 10.22, which is attached in your packet as Exhibit D. It already identifies how certain medical cannabis activities should be regulated and this proposed ordinance builds off of those existing regulations.

So an overview of the proposed ordinance: There are several issues related to cannabis establishments including odor, safety, security, water use, and neighborhood nuisance. Specifically the growing of cannabis. The production of cannabis creates a strong odor that can create compatibility issues with surrounding uses. It is therefore recommended that indoor producers be required to use industry standard techniques to minimize odorous matter, toxic or noxious matter. In addition, outdoor growing is recommended only in zoning districts with larger lot sizes.

Manufacturing of cannabis. The production methods of manufacturing of cannabis and the use of propane that is under pressure can be volatile and can cause fire and explosion risks.

Consumption areas. It is proposed that this use be separated into recreational and medical use. Medical-only cannabis consumption areas will be allowed within any cannabis retailer. Recreational cannabis consumption areas would be allowed in the same districts as bars, since both of these uses are similar in that they are where people go to be

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under the influence of a drug and are limited to persons 21 years and older. Due to the odor and second-hand exposure risk it's proposed that consumption areas that allow for smoking to be indoor in a standalone building from which smoke does not infiltrate into other indoor workplaces or other indoor public places.

Separation. The act allows jurisdictions to require a separation between cannabis businesses and schools or daycares up to 300 foot, and also between cannabis businesses. A 300-foot separation is proposed between cannabis businesses and schools and daycares, and a 200-foot separation is recommended between any cannabis retail and/or cannabis consumption area. The county has a number of vibrant but small retail, non-residential areas. and this 200-foot separation requirement prevents an area from becoming solely a cannabis retail or consumption area and thereby fundamentally changing the nature of the non-residential area and crowding out other businesses.

At the BCC meeting, Commissioner Hughes brought up a concern that this number may be too low and a 300-foot separation may be more appropriate. Staff did produce some sample maps. They're attached in your packet. They are Exhibit H. And we did bring this issue up to the Planning Commission. They did not recommend changing the ordinance to a 300-foot separation. They recommended we keep the 200-foot separation.

Hours. Since the initial drafting of the ordinance the hours for Sunday sales changed effective July 1st, which removed the Sunday morning limits. So the draft ordinance utilizes these new hours. And I did hand out one new draft of the ordinance. That includes language that I highlighted in yellow onto the hours section that just says 'the following morning.' So at the moment it states cannabis products may only be served and consumed in cannabis consumption areas between 7:00 am and 2:00 am, and the language, "the following day" was added to that.

COMMISSIONER GARCIA: Madam Chair, where do you get that in the new ordinance?

MS. ELLIS-GREEN: I did hand it out to you. It's in front of you. It's the ordinance draft. I believe it's on –

COMMISSIONER GARCIA: Madam Chair, what page are you looking at?

MS. ELLIS-GREEN: I'm looking at page 4 of the draft ordinance that was handed out for you. I don't believe it's on BoardDocs. And it's highlighted; it's near the bottom, highlighted in yellow.

Personal use. For reasons of safety, water use and odor it was initially recommended that personal growing being indoor. Several Commissioners were concerned that this could be too restrictive, and staff has since reviewed the existing Nuisance Ordinance, which is Ordinance 2009-11, and found that it does cover odors. Therefore the odor concern can be handled elsewhere.

So staff put together two alternatives for the Planning Commission. The first was to remove Section 10.22.8, and the pros of that would be that the Noise Control and Public Nuisance Ordinance would still prohibit disagreeable or obnoxious odors. It would allow more personal growth opportunities. Outdoor grow may use less energy than indoor grown. And individuals growing personal plants would not need to invest in screening or indoor growing equipment.

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The cons could be unregulated outdoor grow could create security or diversion concerns, and a lack of proscriptive standards such as setbacks may increase neighbor to neighbor disputes.

The second alternative was to amend Section 10.22.8 to state that personal grow can be indoor or outdoor if it is not visible from the public right-of-way. The pros to that would be having the plants not visible would reduce security or diversion issues, would allow more personal growth opportunities in a variety of locations, and this is more performance based rather than proscriptive as visibility will differ between different areas. Also the Noise Control Ordinance would still prohibit any noxious odors and outdoor grow, again, may use less energy. Cons would be the security/diversion risks are greater than with indoor grow, and the lack of proscriptive standards may increase again neighbor to neighbor disputes.

The Planning Commission recommended the removal of Section 10.22.8 and in the revised draft ordinance in your packet staff recommends that the first clause of that be retained to make it clear that cannabis cultivation and production for personal use in quantities as permitted by the act is allowed anywhere in the county. So we would just strike the section that says it needs to be indoors, and that is what's proposed to you in the ordinance.

So the details of the proposed ordinance, first is amending Section 10.6 of the SLDC, which is home occupations, and again, because of safety, compatibility issues and neighborhood nuisance issues, the proposed ordinance will prohibit home occupation permits being issued for cannabis establishments, consumption areas, and couriers. Section 10.22.2, the ordinance identifies findings related to the act, the existing code, odor, water use, security and density of licenses. Section 10.22.3 is where we recommend that we determine where the cannabis establishment should be allowed in the zoning districts. So 10.22.3.1 would be cannabis testing labs and research labs would be treated the same as research and development services. And to point out, this is the same as the existing code for medical cannabis.

Section 10.22.3.2, cannabis manufacturers would be treated the same as food, textile and related products. Again, exactly the same as the existing code for medical products.

10.22.3.3, a cannabis producer or cannabis producer-microbusiness that cultivates cannabis plants indoors would be treated as a commercial greenhouse. Again, this is the same as medical cannabis. A cannabis producer or producer-microbusiness that cultivates cannabis plants outdoors would be treated the same as a dairy farm because both uses produces strong odor and are outdoor uses that can't have effective odor control systems. Those uses are permitted in the Ag-Ranch and Rural zoning districts. Exhibit G of your packet shows the countywide zoning map, and you can see those two districts are the two darkest green areas and it is a huge portion of the Galisteo Basin and the southern part of the county, and also those areas in the northern part of the county too.

10.22.3.5, a cannabis retailer would be treated the same as a store or shop, and again, this is the same as we do for medical cannabis, under the current code.

10.22.3.6, cannabis consumption areas, recreational cannabis consumption areas are proposed to be treated as bars, taverns and nightclubs. Again, both are locations where people go to be under the influence of a drug, and this section requires that

consumption areas that include smoking and vaping be indoor in a standalone building where smoke does not infiltrate to other work places. This is to address issues related to odor control and second-hand exposure risk. Medical cannabis consumption areas are again proposed to be allowed inside a cannabis retailer. This is the same as the existing SLDC. If smoking is proposed this section requires that consumption areas that include smoking and vaping be indoor in a standalone building where smoke doesn't infiltrate to other workplaces.

10.22.3.7, cannabis couriers would fall under courier and messenger service, and 10.22.3.8, a vertically integrated establishment – for example one that produces, manufactures and retails at the same location can be located in a zoning district in which each of the authorized activities proposed is allowed. So you'd look at each activity and you'd see if they were allowed in those zoning districts.

Separation between schools and daycares, 10.22.4, proposes a 300-foot separation. Separation between retail and consumption areas, 10.22.5, recommends a 200-foot separation between cannabis retailers and/or consumption areas. Hours, 10.22.6, propose the hours for cannabis consumption areas and cannabis retailers to be the same as hours for alcohol sales, as regulated by the State. And that would be 7:00 am to 2:00 am for consumption areas, and we did add the "following morning" into that.

Section 10.22.7 requires growers and manufacturers to meet industry standards to minimize odors, and 10.22.8 allows personal production to be anywhere in the county.

The rest of the ordinance includes relevant definitions from the Cannabis Regulation Act that will amend Appendix A of the SLDC.

I'd also like to point out that the county has 13 community overlay districts. So if a community wanted to amend what we propose here they have the right to go through an overlay amendment, and we would work with the communities to find a more streamlined way to do that, if it's just the cannabis section that they want to regulate. For example, if they do allow cannabis production and they want to put stricter standards on or if they don't allow and they want to allow it, they could come through and amend their overlay.

I also wanted to point out that the act covers the Office of the State Engineer requirements regarding water. Our code or our proposed ordinance doesn't actually amend that. Our existing code requires any non-residential use using a well and more than a quarter acre-foot of water to prove that they have adequate water, but other than that, which is existing code for existing non-residential uses, we would get the information from the OSE as far as whether or not they have the relevant water rights.

And if approved this ordinance would take effect in 30 days and we would hope that that would be in time for the State to start issuing licenses for production starting September 1st. And I stand for questions.

COMMISSIONER HAMILTON: Thank you very much, Penny. I believe we have a few people on line. Commissioners, are you all copacetic with holding questions until we do the public hearing part? Are we just with that?

COMMISSIONER GARCIA: I'd like to ask questions first.

CHAIR ROYBAL: I'm fine with that.

COMMISSIONER HAMILTON: Let's go ahead and do the public hearing and we'll be able to do the questions all at once. So I'm going to go ahead and

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open the public hearing. There's potential for people here live and also people on Webex. So is there anybody present virtually or in person that wishes to make a comment on this proposed ordinance?

TESSA JO MASCARENAS (Operations Manager): Madam Chair.

COMMISSIONER HAMILTON: Yes, Tessa Jo.

MS. MASCARENAS: We have a sign-up for a Tatiana Perez.

COMMISSIONER HAMILTON: Okay, and we had one person raise their hand here in chambers. Two people. Three people. Thank you for re-raising your hands. I think it would be convenient to do the virtual people first since you have the sign-up. And then we can as if there are any people on line who didn't sign up who want to comment. So Tessa Jo, can you call people in sequence if they're signed up.

COMMISSIONER HANSEN: Madam Chair.

COMMISSIONER HAMILTON: Yes.

COMMISSIONER HANSEN: Can we please see the people who are speaking virtually? Now it's showing up. It was not showing up.

COMMISSIONER HAMILTON: Okay, great. Thank you, Commissioner. Okay, Tessa Jo, if we could get our first commenter. And if there are several people, we would typically limit this to three minutes. If this turns out to be grossly inadequate we can amend that. So, Daniel, are you prepared to maybe post a timer on this?

COMMISSIONER HANSEN: Madam Chair.

COMMISSIONER HAMILTON: Yes.

COMMISSIONER HANSEN: And could we ask people to turn on their cameras if they have the capability please?

COMMISSIONER HAMILTON: Thank you. I understand. I misunderstood your comment. And if possible, when speaking, when you're virtual, if you could turn your cameras on that would be very much appreciated so we can actually see who's speaking. Give me just a minute so we can see if Daniel is going to be able to put a timer up. Okay, we have our timer up. Tessa Jo, if you'll call the first person and as each person comes on line to testify, we will need to have our Clerk swear you in.

MS. MASCARENAS: Tatiana Perez. I doesn't appear as though she's signed on to the Webex.

COMMISSIONER HAMILTON: Okay. If you could call the second person. If somebody here is present actually live and they hear their name called, could you indicate that you're present? Thank you. So Tessa Jo, if you could call the next person.

MS. MASCARENAS: Madam Chair, that was the only sign-up I had.

COMMISSIONER HAMILTON: Oh. Okay. Thank you. Well, is there anybody else who is on the Webex portion of this hearing that would care to address the public, you can please unmute yourself and announce yourself. Okay, Tessa Jo, at some point later on before we close public hearing let me know if anybody else virtually has indicated a desire to speak. So I'm going to go to the people who are present live who wanted to speak. Can you self-organize and have one person come up and when you come up we'll have the Clerk swear you in and she'll give you instructions.

[Duly sworn, Serafina Lombardi testified as follows:]

SERAFINA LOMBARDI: My name is Serafina Lombardi. I live at 8 Los

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Ranchitos in Chimayo in District 1.

KATHARINE CLARK (County Clerk): And you understand you are under oath?

MS. LOMBARDI: Yes, ma'am. Madam Chairwoman, members of the Commission, thank you for your service and your time today. I come to you from a long line of subsistence farmers, and I'm raising my son in that same tradition in Chimayo. I have dedicated my life to the land, the water and the people of northern New Mexico and with that background I want to share my concerns with you today. I really want to appreciate everyone who has taken the time to create the proposed ordinance and the effort being made to pass something in a timely manner to give perspective to participants in the cannabis industry clarity as to how they can proceed.

Acequias and traditional agriculture are the lifeblood of many of our rural communities in the county, yet the ordinance as proposed would exclude the majority of us who work the land from even contemplating entering the cannabis industry as a supplement to other traditional crops. Creating such a high barrier to entry for outdoor growing by limiting them to the same zoning as dairy farms is unjust in its exclusion of many traditional communities.

The ordinance needs to be more nuanced, including significantly more expansive zoning options for outdoor microlicensees. As I see it, the ordinance as proposed will put pressure on any land that could be zoned as dairy and leaves on those who can afford to build indoor grow facilities or buy up our precious rural landscape as the ones who can enter this new industry. We need to explicitly factor in rural equity and we must ask who does this proposed ordinance protect and benefit? Not me and not my community. Many of us in the county are already feeling the pressure of gentrification. We need to take whatever measures we can to ensure that the cannabis industry does not just become another pressure pushing out our traditional residents, but focus on how this can be an opportunity to support long-standing community members.

I ask that you table this ordinance until we have a more equitable proposal to consider with greater stakeholder input. I understand that there's an urgency and that business people want to move forward and we need information, but this idea that odor is going to be so problematic for our neighbors – I don't know what research anyone's basing that on but it's not my lived experience. And I would ask that we really rethink what's been proposed. I very much thank you for your time and service today.

COMMISSIONER HAMILTON: Thank you very, very much for your comments. I suspect there may be some discussion of that after public hearing. Anyone who cares to speak please come forward.

[Duly sworn, Philip Loomis testified as follows:]

PHILIP LOOMIS: My name is Philip Loomis. My address is 10-B Jacona Road, 87506 in Jacona. And I am aware I am testifying under oath. Thank you, Madam Chair and Commissioners. I just want to say that I'm an organic farmer in the northern part of the county for almost 30 years now and I was very excited that the legislature was doing the microlicense thing because I think it could be a real boon to farmers in northern New Mexico and I think comparing a small cannabis farm to a dairy is a bit of a stretch. I don't think that's really realistic at all. And also I think that it should be – it's an agricultural pursuit and I don't think a greenhouse should have to be considered

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commercial. I think it should be considered agriculture and agricultural zoning should apply.

I think the Commission should really consider making it as reasonable as possible for us small farmers to get a microlicense and I think some of the regulations you're talking about in here are not going to make it easy at all for small farmers. And I really think that that's what the legislature intended when they created the microlicense. So I think that's all I have to say for now. Thank you.

COMMISSIONER HAMILTON: Thank you very much. And I just wanted to indicate, our first two speakers were very concise and while that's appreciated there aren't that many speakers here so if somebody feels they need more time including those who just spoke I'm happy to give it. So if the next person could come up. We'll keep the timer running just because it gives people a benchmark.

[Duly sworn, John Sedillo testified as follows:]

JOHN SEDILLO: My name is John Sedillo. My address is 178 County Road B4-1F in Ribera. And I am under oath. Madam Chair and Commissioners, I appreciate your work very much. I grew up here in Santa Fe and I currently live now in San Miguel County, and I've been active in the hemp farming space for the last three years. So I bring kind of today both my support and objection to the proposal that outdoor microlicenses will pose a common concern to the community in terms of odor.

We've grown many, many acres of hemp. There was never a concern. Terpenes are an active compound within the cannabis plant that are responsible for odor production.

So I have to agree with the speakers before me that that concern is both unwarranted and does really produce a barrier that's unnecessary. A nuanced approach I think is really critical because most of these rural communities are in areas that odor is never a concern. They have personal small-scale livestock and never is that an issue. So I just really want to support the concern about that particular proposal in this draft.

I think also there's been some concern around water usage. Again, that seems to me, as a farmer, really unwarranted. If we don't use our water rights we will surely use them. I think that's a common understanding, and being an expert in the cannabis space I can certainly attest, and also farming other crops that cannabis requires substantially less water use than any other crops, just our alfalfa and hay are a simple example. So I just as an expert in the industry wanted to voice sort of an opposing concern rather than a supporting concern for water usage.

COMMISSIONER HAMILTON: I very much appreciate it. Just because I think I may have missed something you said early on. Could you confirm, you do already grow hemp and have not had odor issues or complaints with your neighbors?

MR. SEDILLO: That's correct, and at a substantially larger scale than what we're talking about adult use cannabis. Ten acres of hemp, the largest cannabis producer in the state – I'm not saying that we are – any other large-scale cannabis producer, you're not going to get close to ten acres of production, given the numbers that we're dealing with. Ten acres, that's 26,000 plants that we've been planting before, so clearly a much larger scale and likewise of no concern.

My community of El Ancon is a very, very small, tight community in terms of proximity to my farm so there's really a baseless concern there.

COMMISSIONER HAMILTON: Thank you very much. Would the next person who would like to speak please come forward?

[Duly sworn, Erica Rowland testified as follows:]

ERICA ROWLAND: My name is Erica Rowland and my address is 8334 Second Street New Mexico, 87114, and yes, I'm under oath. Hello, Madam Commissioner and other councilors. My name is Erica Rowland and I have to apologize. I just recently received this ordinance. I'm new to this procedure and legislature and trying to be an entrepreneur and do this kind of on my own and navigate as a heritage farmer here in New Mexico. My family has been growing plants and selling retail plants for over 100 years in the state. I had a very hard time finding these ordinances. I don't know if it was online posted previously or not so I can't be super-specific but I did have some ideas that I wanted to address.

I'm here as a business owner, a medical cannabis advocate, and also most of all a mother. I'm here today to make public comment regarding parent-child discrimination regarding cannabis. As you're aware, cannabis has been federally illegal for as long as we can all remember. We can go on and on as to why that is but quite simply, New Mexico and the Lynn and Erin and Compassionate Use Act created a medical cannabis program with over 200,000 patients to solidify rights and protections for patients and their medicines.

A large majority of these patients are parents, grandparents, uncles, aunts, etc. We're a responsible group that's proved over the last 14 years that we can manage our medicine around our children safely. There is certain verbiage in laws that disallows minors at consumption areas and production sites unless licensed under the Lynn and Erin Compassionate Use Act. Let the law stand alone. I believe that outstepping its authority for any jurisdiction, counties or municipalities to add anything to ordinances inhibiting basic parental rights and dictating where we are allowed or disallowed to have our children.

As this program is in its infancy it's important to not discriminate in the initial ground rules. I encourage education and parental rights to speak against any municipality, including Santa Fe County, to regulate parental responsibilities. We are their parents and this is our medicine. I just am here as a parent. Ultimately it is our responsibility to keep our children safe. For example, home occupation, I read something in there being disallowed or what have you. If you live and work and grow on the property as a farmer with multiple acres and that is your profession, you're disallowing children on the property. And the education and the enforcement of the stigma is continuing through these words in these ordinances.

So I just – I request that you consider that this is a plant, this is a medicine also and if we come out with it being immediately stigmatized and forced inside and not allowed to be seen or heard or smelled we're really kind of counteracting what this plant is really here to do. So thank you.

COMMISSIONER HAMILTON: Thank you. If I'm not mistaken, was there at least one other person who wanted to speak, or did we get everybody? So is there anybody here present, live, in person – everybody's live – who would like to address the Commission on this ordinance? Okay. is there anybody who is on the Webex, going back to you, who would like to speak publicly about this ordinance.

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MS. MASCARENAS: Darren Munzberg.

[Duly sworn, Darren Munzberg testified via Webex as follows:]

DARREN MUNZBERG: My name is Darren Munzberg. My address is 26 Camino de la Bajada in the traditional village of La Bajada, New Mexico. And I am under oath. I initially had a question regarding some elaboration on the amendment about overlay process. If that is just being included as an alternative here, or if that is fairly well spelled out in how we can approach that through our community plans if this ordinance should go through with what apparently might be a lack of sufficient public input.

After hearing the other speakers this afternoon and being very surprised that there are so few of us, I'm respectfully requesting that the Commissioners table this ordinance until the issues raised by Serafina Lombardi and the other heritage farmers and acequia communities can be more thoroughly addressed. I think that that [inaudible] and in the statewide news of cannabis, medicinally and recreationally, the impacts and the opportunities that this presents are too significant for us to rush into it. And I again respectfully request the Commissioners to table this ordinance for now. Perhaps at least for the week until we can see some more harmonizing with the state regulations that are still being formulated and a public comment period for which is ending next week.

I'm concerned that there aren't enough of us here speaking and participating today. Again, I'm respectfully requesting that the Commissioners table the ordinance moving forward at this time. Thank you.

COMMISSIONER HAMILTON: Thank you, Mr. Munzberg. Is there anybody else online that wishes to address the Board? Tessa Jo, do you know if there is anybody else?

MS. MASCARENAS: Madam Chair, I don't believe there is, however, if they are calling in by telephone they will have to select star 6.

[Duly sworn, Michael Ciano testified via Webex as follows:]

MICHAEL CIANO: Michael Ciano, 11 Las Joyas Lane, 87506, and I attest that I am under oath. Just a comment as well. I believe that we've heard from other constituents in regards to – we actually haven't heard from anybody who's saying that we should make more restrictive ordinances for the state law, which I find interesting. And all the things that we've heard are from people basically saying we have an opportunity for us farmers in order to be able to participate in what's been passed as a state law and that creating more restrictions without having any [inaudible] could be potentially counterproductive to what the state's rules are.

So I would ask that the County consider tabling the ordinance as well, allowing things to unfold through the state legislature instead of taking a pro-active stance and assuming problems and issues, and instead to address them as they come in order to see what direction if any need to be taken within the county. That's it for me.

COMMISSIONER HAMILTON: Thank you very much. Tessa Jo, is there anybody else who is on line who would like to address the Board on this ordinance?

MS. MASCARENAS: No, Madam Chair. Not that I'm aware of.

COMMISSIONER HAMILTON: Okay. Thank you very much. Having heard the public testimony I'm going to go ahead and close the period of public comment. I suspect we have quite a few questions. I think some of them even relate to some of the things that were commented on. So I'm going to open it up to the

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Commissioners and I'll go down the row.

COMMISSIONER HANSEN: Thank you, Madam Chair. I too had a couple of questions about the zoning. I think that actually for microlicenses which I'm very concerned about, I'm looking at the zoning chart and I believe that dairy is one dwelling per 50 acres, and I think that we might consider more such as down to Rural Fringe, at least, which would be one dwelling per 20 acres. I think for a microbusiness, which I believe is 200 plants, if I'm not correct. I believe I'm correct. It's 200 plants. Correct, Penny? I just want to make sure that I'm making the right premise.

Okay, so at any one time they could have close to 400 plants but there would only be 200 mature. So I think 200 plants could easily be grown on an acre. If anyone wants to contradict that but I believe that is about the amount of land that 200 plants would take. So if we're excluding all of these micro and small farms throughout northern New Mexico, even one dwelling per ten acres, which is Rural Residential, they would be able to keep it in a relatively small area and make sure that the smell would not be drifting over to their neighbors.

So that is one of the issues that I am very concerned about because I am very concerned about the small microbusinesses. I think that the rules and the laws, or the laws that the legislature wrote were very unique in making this law available for microbusinesses. And so because of that I think we need to also be very conscious of that fact and continue to support our microbusinesses. And the water, I've gotten a number of emails about water, and water is regulated by other sections of the SLDC so I don't think that that is an issue here. If people are concerned about that I know that we have been working on adjudicating our wells and I think we need to start thinking about adjudicating the well use so that we have a better knowledge of how much water everyone has throughout the county. Not that that has anything to do with this regulation right now but I'm just mentioning that.

So that is my main concern is that we make it available in this ordinance to allow Rural Residence, Rural Fringe and Rural-RUR which would include many of the small farms throughout northern New Mexico and Santa Fe County. That's all I have to say for the moment.

COMMISSIONER HAMILTON: Thank you, Commissioner Hansen. I think there are probably several questions we might be able to ask Penny in that regard, but really appreciate your input. Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair and I'll just go ahead and ask the questions because I have the same concerns Commissioner Hansen did, that I hoped we could perhaps find a way to include our small rural farms. And I'm just wondering if our Planning staff has an alternative somewhat prepared that we could insert today that would address that. The issue that Commissioner Hansen raised, and that the speakers raised.

COMMISSIONER HAMILTON: Thank you, Penny.

MS. ELLIS-GREEN: Commissioners, to address a couple of points, as we were drafting this ordinance we did have a lengthy discussion with the executive director of the counties in Washington State and he said that their number one concern, number one problem that they had in Washington State when cannabis became legal was odor. The number one complaint that they got from neighbors was odor. In addition, staff have

done a site visit to a grower in Bisbee Court. It was inside a greenhouse. It definitely smelled within the greenhouse and they had fans, because you've got to deal with humidity issues in the greenhouse. Apparently the plants need a certain humidity in order to flower properly. They had several hundred plants in the greenhouse. They had fans that were extracting the smell out. There was definite very strong odor outside the greenhouse. That was in a commercial area though on Bisbee Court.

I would like to add that community districts – there are 13 of them. They already have their overlay. And for example in Chimayo they have four zoning districts that would allow outdoor grow. So some of the overlays already allow outdoor grow.

COMMISSIONER HAMILTON: Of Commission specifically?

MS. ELLIS-GREEN: They allow the dairy farms and therefore for outdoor grow we use that same zoning district. They would allow outdoor grow. We do allow indoor grow throughout the county.

I also did hand out to you several documents. These are just articles from – I believe there's one from the *New York Times*, from *Denver Public Health*, that do talk about the smell. So I think that it's been established that there is definitely an odor and that was our concern when we looked at outdoor grow on a large scale.

So going back to the community districts. Commissioner Hughes just asked would there be a procedure. If we get communities that want to amend their overlay, if they've already got an overlay, we will come up with a streamlined process to amend it just specifically for this and we will deal with them together so we're not waiting years and years for communities. I believe there was a speaker from Webex from the community of La Bajada. We are in the process now of working with them to create their own plan and their own overlay. We've got 13 already in existence. So if they do want to move forward – again, we work by consensus when we're doing community planning. If there's consensus for the community that they want to regulate in a different way then that is something that we can do, and we will do a streamlined process.

And I'm looking to Greg to see if I missed anything from the points.

GREG SHAFFER (County Attorney): If I could, Madam Chair. I think the challenge for Santa Fe County and all local governments throughout the state is that the state legislation imposes an exceedingly short time frame in which local governments could examine some of the complex issues that arise relative to compatibility of uses under the Cannabis Regulation Act. As Ms. Ellis-Green alluded to, the State is supposed to start accepting and processing applications on September 1st. That's, again, a very small window of time in which to do robust community planning along the lines that Ms. Ellis-Green was describing and several individuals from the community have suggested as appropriate.

So I would just add that from the Board's perspective, one way to think about it is these are initial regulations that can be reviewed either through a community development process where you can hear from the entire community. As Penny said, they work by consensus and you can hear from the entire community as to whether or not they think less restrictions are appropriate for their particular community. That's a process through which you could hear, again, from the entire community as to what they think is appropriate for their community.

The challenge you have as policymakers is that once the business is licensed, the

Cannabis Regulation Act is very clear, you can't make it move. And so you can't undo "yes" but you can refine and potentially change where it is allowed. And I just offer that for your for a perspective. We can work with whatever a majority of the Board wants us to do in terms of developing alternatives. But I did want to just underscore and perhaps repackage what Ms. Ellis-Green said in slightly different terms to potentially provide context to where we're at and how things could unplay in the future.

COMMISSIONER HAMILTON: Thank you, Attorney Shaffer.
Commissioner Hughes, did you have any more questions?

COMMISSIONER HUGHES: Yes. I just want to say I'm not particularly in favor of tabling it today because I think it would be better to have something going forward even if it's too restrictive than nothing. We could do that. I think if we were to table it just for a week it wouldn't be terrible but that's not my first choice. I just wanted to make sure that was out there.

I did wonder, Penny, you said it would be allowed in Chimayo. What kind of districts would it be allowed in Chimayo? I was just wondering if that was something we could generalize or at least maybe that would address some of the concerns of some of the people who spoke.

MS. ELLIS-GREEN: Thank you, Madam Chair, Commissioner Hughes. And actually, up on the screen is the countywide zoning map which is this document. So outdoor grow at the moment would be allowed in Ag-Ranch and Rural. That's where dairy farms are allowed. So that's the two dark green colors, which is basically all of this area here and there's additional areas up here. We then have the 13 community overlays. In Chimayo they have Rural-Residential, Residential Fringe, Residential Estate, and their traditional communities would all allow those uses under a conditional use permit.

Many community districts do not allow, so if I run through – this document is Exhibit F, which is the community overlay district use table, and what we've done is pull out the relevant uses. So for dairy farms, would not be allowed in Cerrillos, would not be allowed in Tesuque, would not be allowed in Madrid, not in San Pedro, it's allowed in their Ag-Ranch and Rural Fringe in La Cienega/Cieneguilla, is allowed in the traditional community and commercial neighborhood in Arroyo Seco, not allowed in the 284/85 South Highway Corridor, not allowed in Tres Arroyos, not allowed in Agua Fria, allowed in the traditional community of Pojoaque Valley, not in San Marcos, not in Galisteo, and in Chimayo, as I said, allowed in Rural Residential, Residential Fringe, Residential Estate, traditional community.

So kind of almost all of the Chimayo overlay, just not their small commercial neighborhood, or PI, public institutional districts. So again, if these communities wanted to amend that we will have a streamlined process for them to come through and do that. But as of September 1st we will be getting letters from the state saying that people have made application and they're asking for our approvals before you continue through the state. So either it's going to hold people up or you're going to get licenses come through with no correct zoning, and then you would have the non-conforming issues that Greg spoke of.

COMMISSIONER HUGHES: Thank you. I just have one more question related to all this. So if we were to take Commissioner Hansen's suggestion and allow this in Rural Fringe as well as the two darker greens, would that in any way supersede the

communities that have the overlay districts that don't permit it?

MR. SHAFFER: Madam Chair, Commissioner Hughes, it depends upon how it's written. Again, we were attempting to define uses where staff was – that they felt were similar for purposes of zoning and looking at the compatibilities, I guess. It would depend on how it's written. I would just note that relative to the Rural Fringe, if the Board were to adopt staff's recommendation, that would be permitted as a conditional use, so that would be an opportunity for someone in that area to get permission, where any site-specific compatibility issues could be addressed. So I would just note that for the record, that staff's proposal, Rural Fringe, it would be a conditional use, I believe. Ms. Ellis-Green, if you could correct me if I'm wrong.

COMMISSIONER HAMILTON: Why would it be a conditional use?

MR. SHAFFER: Madam Chair, I'm just explaining what it would be if staff's recommendation were accepted. So staff said for purposes of zoning, the recommendation from the Growth Management Department was to allow outdoor growth wherever dairy farms were allowed. So under the existing use table, dairy farms are a conditional use within Rural Fringe. So I'm just explaining what their proposal would be.

COMMISSIONER HAMILTON: Okay you answered my question. I get it.

MS. ELLIS-GREEN: Madam Chair, Commissioners, I apologize. I think I misspoke earlier. When I did the presentation I stated where it would be as a permitted use, which is an administrative approval, but Greg is correct. Dairy farms are allowed in the Rural Fringe under a conditional use permit. So there are actually three zoning districts that under our current proposal. So it'd be Ag-Ranch, Rural, and Rural Fringe that would be able to have outdoor grow, either as permitted or as a conditional use.

COMMISSIONER HAMILTON: What about Rural Residential. For the record, Commissioner Hansen was suggesting that because that's a dwelling per ten acres. Is it a conditional use in Rural Residential? Dairy farming?

MS. ELLIS-GREEN: Per our current countywide zoning use table, are permitted in Ag-Ranch and Rural, and conditional in Rural Fringe.

COMMISSIONER HAMILTON: So Commissioner Hughes, do you have more questions?

COMMISSIONER HUGHES: No, I think all my questions are answered for now. I'll continue to listen to the other questions.

COMMISSIONER HAMILTON: I'll come back around. I'll go to Commissioner Garcia and then to Commissioner Roybal.

CHAIR ROYBAL: I don't have any questions.

COMMISSIONER GARCIA: Thank you, Madam Chair. Actually, to address the Rural Fringe area, which is that dark green area which is District 3. Madam Chair, Penny, once again explain to me what Rural Fringe is on the map up there please.

MS. ELLIS-GREEN: Madam Chair, Commissioner Garcia, Rural Fringe, there are smaller areas of that south of the Community College District. You'll see that green area, the lighter green area, that's Rural Fringe. You'll see some south of the tribal area around Pojoaque and 285 that goes north to the east and the west of 285. You will see some more down by the Community College District between I-25 and State Road 14. There's another small area there. And there's another small area in the south on the

map where it says Cedar Grove going over towards Stanley, there's another band.

COMMISSIONER HAMILTON: I have a question real quick. The map that you have posted up here does not look like the map that is Exhibit A, that is in our packet materials, which actually has a key. And it shows dark green as Ag-Ranch and that medium day-glo green is Rural. And Rural Fringe has a very kind of light tannish green. And it's not following that --

MS. ELLIS-GREEN: Madam Chair, it is in Exhibit G, which is the countywide zoning map. The colors may have come up differently in there, but you will see --

COMMISSIONER HAMILTON: Exhibit G, that's what I have up on my screen.

MS. ELLIS-GREEN: Yes. My colors on this map look a little bit different. This is the Ag-Ranch, this dark green color. The kind of brighter green that you're seeing up there is the Rural, and then the areas where you've got Rural Fringe are these smaller areas --

MR. SHAFFER: I'm sorry, Penny. Just so that everyone is following along it might be useful if those who are running the actual presentation could pull up Exhibit G from the packet material.

COMMISSIONER HAMILTON: That would be very helpful.

MR. SHAFFER: I believe that what is up now is the interactive zoning map, and that's why the key is not shown and why the colors might look a little off.

COMMISSIONER HAMILTON: Thank you very much.

COMMISSIONER HANSEN: Madam Chair, in the meantime, could I just ask a few people in the audience if their farms are ten acres or larger, or 20 acres or larger? Because I believe that a large of farms, agricultural farms in the county are ten acres to 20 acres. Is that correct?

COMMISSIONER HAMILTON: Technically, I think I have to have -- is this allowable? Attorney Shaffer, should I have people come up to the microphone. Otherwise it's not part of the minutes.

MR. SHAFFER: That's correct. I think the better practice would be to call people up so that they can speak into the microphone, identify who they are so that you would have an actual record. I think that would be the better practice.

COMMISSIONER HAMILTON: If you guys don't mind coming up really quickly and giving the acreage while we're waiting for this to be posted.

MR. LOOMIS: I have two acres myself that I own, and I farm other acres but that's separate.

COMMISSIONER HAMILTON: Thank you.

MS. LOMBARDI: Serafina Lombardi again. I own a plot in the area I would like to grow cannabis, which is more than enough for 200 plants. More, significantly it's .18 acres. I grow a vegetable farm on a separate plot that is about a half acre, which I am a tenant farm of.

COMMISSIONER HAMILTON: I'm sorry. How many acres?

MS. LOMBARDI: One half an acre.

COMMISSIONER HAMILTON: Thank you.

MS. LOMBARDI: And I have some additional comments when it's

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appropriate that I would like to make in relation to the conversation that's transpire.

COMMISSIONER HAMILTON: Okay. We'll see if we can reopen public comment.

MS. ROWLAND: Erica Rowland, and it's five acres. And I as well have another public comment.

COMMISSIONER HAMILTON: Thank you.

MR. SEDILLO: John Sedillo. My farm is ten acres, and I would say that most of the farms in my specific region are ten acres or less.

COMMISSIONER HAMILTON: And did you not say that you grow several thousand plants per acre?

MR. SEDILLO: Yes. Several thousand plants per acre, but 26,000 plants on our farm.

COMMISSIONER HAMILTON: For ten acres.

MR. SEDILLO: For ten acres. Correct.

COMMISSIONER HAMILTON: Thank you.

COMMISSIONER HANSEN: Thank you, Madam Chair.

MR. SHAFFER: Madam Chair, just to have a complete record, and that's in San Miguel County? Is that correct, sir?

MR. SEDILLO: Yes, sir.

COMMISSIONER HAMILTON: Okay. Thank you. The map is up and we were with Commissioner Garcia, So Commissioner Garcia.

COMMISSIONER GARCIA: Yes. Thank you, Madam Chair. The individuals that have the farms out there, I believe they are farm in Santa Fe County.

COMMISSIONER HAMILTON: Except for the one.

MR. SEDILLO: San Miguel

COMMISSIONER GARCIA: Thank you. Thank you, Madam Chair. In regards to the fringe map, a lot of that fringe is in District 3 and in District 1. According to the way I read the ordinance – Penny, please correct me if I'm wrong – this is already allowed, basically in the green areas. The dark green, the light green – is that correct?

MS. ELLIS-GREEN: Madam Chair, Commissioner Garcia, that is correct. Either as a permitted or as a conditional use in those first three green zoning districts.

COMMISSIONER GARCIA: Thank you. Also, to the ordinance that we're considering today, there's been a lot of talk regarding dairy farms, and comparing these to dairy farms. Can you give us the definition of what a dairy farm is? Because a dairy farm to me is something when you go to southern New Mexico and you pass Las Cruces as well as heading down south into El Paso, that is a dairy farm to me where you have a lot of cattle, cows out in that area. And the only dairy farm that I know of in Santa Fe County is in Commissioner Roybal's district, or it used to be a dairy farm, which is in the Nambe area, which I don't know if it's still there anymore. But just for the record, can you describe to us what a dairy farm is, according to the code?

MS. ELLIS-GREEN: Madam Chair, Commissioner Garcia, our code doesn't have a definition for a dairy farm. What we did when we looked at where the appropriate uses would be is we looked at what had similar implications. And the odor issue with a dairy farm was a similar issue to the odor with outdoor grow. Odor also with indoor grow but remembering then you would have a system that would be able to filter

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the odor.

COMMISSIONER GARCIA: Thank you, Madam Chair. Also in regards to this proposed ordinance is actually where the use, possibly color, size, height, where it's allowed within the limits of the county. And right now, this ordinance, we are not addressing water because my understanding is water is still at the state legislature, in the LFC, the Legislative Finance Committee, which the state legislature is actually addressing how and what to do with these called plantations. And so right now we're only looking at where the uses are allowed. And once the state legislature, the Legislative Finance Committee acts on how the State Engineer is going to allow or not allow water rights, then at that time we'll determine whether or not a grower can actually grow depending on what type of water rights if they have any. Correct?

MS. ELLIS-GREEN: Madam Chair, Commissioner Garcia, yes. We would take the decision of the OSE as far as what water rights are allowed. So we wouldn't regulate that separately.

COMMISSIONER GARCIA: So Madam Chair, so once again if somebody does come in for a growers license on their property, we will check with the State Engineer's Office to determine what type of water rights they have and if they have significant water rights. Correct?

MS. ELLIS-GREEN: Madam Chair, Commissioner Garcia, yes. We would take whatever it is the State Engineer had approved for their growing. I believe what the act says is that you need commercial water rights or other appropriate rights, or if you utilize a water system they have to specifically state that the water they are giving you is okay to be used for cannabis production. So we would look for one of those things to be submitted with our application, but we wouldn't regulate any differently than the state regulates. With the exception of what's currently in our code, for if you're using a well and you're non-residential and you use more than a quarter acre-foot you do have to prove you've actually got the wet water, as well as the water rights. The water rights portion is with the State Engineer, but our code, whether you're doing this kind of business or any other business, if you're using more than a quarter acre-foot from a well then you're going to need a hydrology report.

COMMISSIONER GARCIA: Thank you. And in regards to greenhouses, Madam Chair, Penny, greenhouses are allowed for this type of use.

MS. ELLIS-GREEN: Madam Chair, Commissioner Garcia, yes. They are permitted throughout the county under our zoning map.

COMMISSIONER GARCIA: Thank you. Where I'm going with that is I was actually in Colorado a couple weekends ago and I was staying at a hotel roughly three blocks away from a growery, a distribution center. I could actually smell the crop that was growing, possibly, and it was indoors. And so I understand that an individual would actually, it seems to me, would want to grow their plants indoors because the outdoor elements, when it comes to possibly too much sunlight, hail, rain, that could actually damage a plant. I'm sure the growers would not want their plants to be damaged. So I understand the whole greenhouse – of bringing that forward.

MS. ELLIS-GREEN: Madam Chair, Commissioners, yes. When we did the site visit, the discussion that we had with the grower there was that they regulate the temperature in the greenhouse, the amount of light, the amount of water, the humidity,

and that they do have a harvest every single week. So they have a rotation, and that is how they can produce on a regular basis. We asked them whether or not they could do the same grow outside and they said, no, they wouldn't be able to, because you can't grow outside to produce every single week through the winter. You've got a small growing season.

So I don't believe that that entity at least would even consider outdoor grow.

COMMISSIONER GARCIA: Thank you. And also, Madam Chair, if a community district would come forward and actually amend their community overlay district and they would, let's say, make it a lot more strict or less lax, and the County Commission would actually approve that overlay district, and who would enforce that?

MS. ELLIS-GREEN: Madam Chair, Commissioner Garcia, that would be enforced the way that we usually enforce through the code. So if a community district, for example, did not want to allow a commercial greenhouse in a certain district they could come forward, go through a process, get that approved by the Board of County Commissioners, and then as new projects came in they wouldn't be allowed in that zoning district. The other way around is if something was not allowed in their zoning district and they wanted to allow it they could change their use table, propose changing their use table, get that approved by the Board.

And again, usually it's several years that people take because they amend their whole plan and they talk about a wide array of subjects and all the different uses. If it's related to cannabis we will find a streamlined process to get communities together to be able to make the change, if that's the consensus of the community.

COMMISSIONER GARCIA: Thank you, Madam Chair. Also, Penny, in regards to the 300-foot, 200-foot setbacks from an adjoining grower and/or a school, where did we come up with the 300- or 200-foot setback. And if it is from schools, did we check with the schools?

MS. ELLIS-GREEN: Madam Chair, Commissioner Garcia, the state act allows us to have a setback between schools and daycares of up to 300 foot. If you remember, Alcohol and Gaming have a setback from any alcohol establishment of 300 foot from schools, churches and daycare. So they've added churches in. Churches weren't added into this act. It's schools and daycare. We recommend going to the maximum there, which is a 300-foot separate.

COMMISSIONER GARCIA: Thank you, Madam Chair. Penny, you explained on 10.22.8, the Planning Commission actually eliminated a portion of the proposed ordinance. Can you explain that to me once again, please?

MS. ELLIS-GREEN: Yes, Madam Chair, Commissioner Garcia. Originally staff had recommended there be a second sentence in that section that said personal growing needs to be indoor. What the Planning Commission recommended was that we strike that section. So that section now reads that personal grow can happen anywhere in the county and it doesn't have a restriction for being indoor. So it can be outdoor, indoor – there's not a restriction proposed.

COMMISSIONER GARCIA: Madam Chair, Penny, what is the amount of plants that somebody can grow for personal use outdoor?

MS. ELLIS-GREEN: Madam Chair, Commissioner Garcia, I believe it's six plants. If you've got multiple adults, several adults could have six plants up to a

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maximum, I believe, of 12 per household.

COMMISSIONER GARCIA: So Madam Chair, Penny, do you feel from your opinion that this is prohibiting local small growers from actually opening up a growery, or a place to grow?

MS. ELLIS-GREEN: Producing or growing?

COMMISSIONER GARCIA: Yes.

MS. ELLIS-GREEN: Madam Chair, Commissioner Garcia, staff looked at the fact that within the county we allow commercial greenhouses in all zoning districts. Some community districts did choose that they do not want commercial greenhouses in certain districts, but countywide we allow them throughout the county. We allow them in a large acreage lot for outdoor grow, so we believe there is plenty of opportunity for the small grower as well.

COMMISSIONER GARCIA: Thank you. Also, Madam Chair, just once again, this ordinance, proposed ordinance that we're considering today doesn't really deal with water rights, yet, correct?

MS. ELLIS-GREEN: That is correct.

COMMISSIONER GARCIA: Just wanted to put that on the record. And then also in regards to – I think this is something that new that the County Commission and local governments are actually dealing with statewide as our attorney actually mentioned, and so I think we've done a great job, staff, you've done a great job as into bringing this forward within a certain deadline. It will be interesting to see some of those communities that do not have an ordinance and what's going to happen, how the state's going to handle that.

I think once again this is something new that the entire state is dealing with and as Penny mentioned earlier, if there is something that we need to do for the local grower and the smaller grower per se, then we need to help and we can fast track it as you talked to Commissioner Hughes about then certainly I believe this Commission is actually willing to move forward and help out you individuals that need some help out there if this ordinance is approved. And with that, Madam Chair, I have no more questions at this time. Thank you.

COMMISSIONER HAMILTON: Thank you. Commissioner Roybal, are you still on the line? And do you have any questions?

CHAIR ROYBAL: Yes, Madam Chair I'm here. I want to thank the community for coming out. Also, I want to make sure you do touch on all their concerns. I know staff has done a good job and we've been put in a position that we have to bring forward and ordinance and it's something that's not always easy to make these decisions. But I do want to the community again with the comments and concerns that they brought forward.

COMMISSIONER HAMILTON: Okay. Thank you, Commissioner Roybal. Please break in if you have other comments. I do have a few questions. I'm going to cycle back around, however, to Commissioner Hansen and cover the Commissioners one more time. And then if the Commissioners have no objection I will reopen public comment for the few additional comments that were requested.

COMMISSIONER HANSEN: Thank you. I appreciate you reopening public comment. I am concerned. My biggest concern, and I mentioned this the first time

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we heard this is the small, microgrower. That is something the New Mexico Legislature took into account. Also, outdoor growth. I understand it's a nice idea and really a good idea to have everything inside in a greenhouse. It might be safe. But at the same time, I've lived in New Mexico for 50 years, just about. And many people throughout my life that I know have grown marijuana in their yards, outside in northern New Mexico, southern New Mexico, and it's been perfectly fine.

So I think that by putting a heavier burden on the small microgrower, by making them only be able to grow indoors is also placing another burden that I do believe that the legislature did not intend. They, I believe, intended that we would make sure that we had the opportunity for microgrowers, small, like Serafina and Phil and other here. They're growing on two, three acres. They might not have the resources to build a greenhouse, buy the lights, buy the equipment, to start the business. And I want to make sure that they are not left out. That is one of my big concerns.

That is I think what the legislature intended was to make sure that these small growers had that access. So I just wanted to restate that. I'm trying to look and see if I have any other notes. Right now, I just want to – because I know that you, Madam Chair, have not made comments so I would like to hear your comments also.

COMMISSIONER HAMILTON: Thank you. So I want to preface this by saying that I actually really respect the fact that staff took a lot of effort to research what was going on in other places that already have these issues, that have already gone through the process of having to make regulations for the whole growing of recreational cannabis and medical cannabis for that matter. And there's always a diversity of problems. So I recognize the odor issue as being real but I think there are analogues to many things where there are conflicting opinions about what's a public disturbance, public nuisance and what isn't.

So I think that's a little bit of a hard thing to get a handle on, and of course that's the position we are in, to try to make a decision that is conservative enough that we can change progressively and not have to undo a yes, which actually is a very valid point.

Having said that, I have to say that I share Commissioner Hansen's concern. Frankly, I see a little bit of an analogy with the – go ahead and laugh if you care to – with the community solar issue, where the idea was to be able to bring in solar without having it completely dominated only by big corporations. They're the only ones able to do things. And while it seems like a good rule of thumb to use the analogy of the dairy farm as being already areas where they're sufficiently remote to not be a public disturbance with the odor, I guess I feel like it automatically is limiting to people who really could do it as small businesses.

I have been very much in favor of New Mexico and by extension Santa Fe County extending its economic development, but I'm very much in favor of that as a grassroots level, to favor small, individuals, small businesses, and that's not something that's easily done in our economic construct.

So I guess one question I have is what is our possibility for changing the wording of this ordinance now. Because I'm also not in favor of postponing, of tabling this to be able to do this if there was an alternative, because as has been stated, people are going to start putting applications into the state September 1st. So I would like to keep on it. Is there an option now to change that wording and still pass the ordinance? I'll get right

back to you after the question gets answered.

COMMISSIONER GARCIA: But I think if some of our Commissioners – sorry, Madam Chair – if we have some concerns we should bring them forward. We can change the ordinance all day long. Whatever we want –

COMMISSIONER HAMILTON: I was asking the question specifically to Attorney Shaffer with respect to timing as well.

MR. SHAFFER: Madam Chair, Commissioners, yes. The Board always has the discretion to change proposed ordinances. What we would need is clear direction on what you want in terms of whether there's an existing use on the use table that you feel is more appropriate by way of analogy, or whether there's a different or more appropriate by way of similarities of impacts. That would be one species of drafting. Whether you want to come up with individualize rules specifically for cannabis, that's a different thing. Whether you want to try and make a distinction between microbusinesses and larger-scale businesses. That becomes a different thing. So the short answer is of course you can change the ordinance. A slightly longer version is how much time that takes depends on what it is the majority of the Board wants to see happen. I would obviously recommend that if you have a conceptual direction you want to go in as a Board that we hit pause so that we can take the time to actually craft it, since no one approached staff in advance about a potential amendment to be worked on. It's not something that we have to just whip out and say, here you go. Would this work? So we would want to have the luxury of stepping away from the meeting to make sure that we've captured whatever direction is of a majority of the Board. I hope that answers your question.

COMMISSIONER HAMILTON: It does. I think in consideration we should talk about just how much time will be needed if we want to do that. I'll go back to all the Commissioners but if there are no objections, I know this is a little unusual but I'd like to reopen public comment.

COMMISSIONER HUGHES: Madam Chair.

COMMISSIONER HAMILTON: Yes.

COMMISSIONER HUGHES: I'm just wondering if it might be more useful to the public if we had sort of an idea of what our proposal was, so that when they come forward to speak they can say, yes, that was exactly what I wanted or –

COMMISSIONER HAMILTON: That's a very good idea. Conversely I was also thinking that if we heard the additional public comment we would have a better idea of what we want to include. So I could go either way on that. I'll happily go back around and then reopen public comment. Commissioner Hansen.

COMMISSIONER HANSEN: Yes. So I was looking here at 10.22.3.3, 10.22.3.4, so mostly those are the two that are talking about microbusinesses that cultivate cannabis plants. Indoors, we could slash it outdoors. And then on 10.22.3.4, a cannabis producer or a cannabis producer-microbusiness that cultivates cannabis plants outdoors shall be treated as the following. So I'm really only concerned with the microbusinesses. As I've heard from the Commission that mostly we're concerned with the microbusinesses. Large-scale businesses, I want them indoors. I want them – large-scale. I'm mostly just concentrating on the microbusinesses that are small like we have in the audience, who seem to be the people who are concerned that they be able to grow

outdoors, indoors, and that we remove the term dairy farms and we include Rural Residential, Residential Fringe, and we use them as conditional use.

COMMISSIONER HAMILTON: Residential Fringe or Rural Fringe?

COMMISSIONER HANSEN: Residential Fringe, which is one dwelling for five acres, but they would be conditional use and they would have to come and get a permit still. If they're that small that they're a microbusiness, because I really, really am concerned about the small individual not being left out and that all of a sudden we have these huge mega-producers the only ones making money off of this.

I also want to talk about the fact that this is a very dry climate, so odor and smell travel differently in different climates. In a wet climate it holds much more to the moisture in the air, so I think we have to think about that. But those are just a couple suggestions. Because I do believe also that I want to have rules in place by the time that the state opens this up for licensing.

MR. SHAFFER: If I could ask a clarifying question, Madam Chair.

COMMISSIONER HAMILTON: Yes.

MR. SHAFFER: So was the suggestion being brought forward by Commissioner Hansen that outdoor grow be a conditional use in Rural Residential, Residential Fringe? Was that the specific proposal?

COMMISSIONER HANSEN: Yes. It still allows us some control over the issue, but also allows the small grower.

MR. SHAFFER: I just wanted to make sure I understood the concept.

COMMISSIONER HAMILTON: And could you explain what the status of Rural Fringe is?

COMMISSIONER HANSEN: Rural Fringe is one dwelling per five acres base density. Residential Fringe is one dwelling per five acres.

COMMISSIONER HAMILTON: Could you explain in your proposal for Rural Fringe where you would –

COMMISSIONER HANSEN: Rural Fringe is one dwelling per 20 acres. Rural Residential is one dwelling per ten acres.

COMMISSIONER HAMILTON: I got that. What I'm asking – I'm sorry; I wasn't very clear, is where you think Rural Fringe would stand in your revised proposal is what I'm asking.

MR. SHAFFER: What I understood if I could, and maybe this is –

COMMISSIONER HAMILTON: Yes. It might be clear to you already.

MR. SHAFFER: Is that the proposal that was brought forward by staff, leaving aside the label, is that with regard to outdoor grow, regardless of size, it would be a permitted use in Agricultural-Ranching, a permitted use in Rural, and a conditional use in Rural Fringe. What I understood Commissioner Hansen to be proposing is that it also be a conditional use in Rural Residential and a conditional use in Residential Fringe. That's what I understood the proposal to be.

COMMISSIONER HAMILTON: Is that correct? Excellent. Thank you. So go ahead.

MR. SHAFFER: And I ask, the map is up and I just ask Penny so that we're making now concrete, if it would help the Board in considering this if she could highlight those areas so that everyone understood what we're talking about.

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MS. ELLIS-GREEN: The Rural Residential is the pretty bright yellow color, and the Residential Fringe is the darker, kind of slightly orange yellow color on that map. So it's large areas in this general area south of the tribal area, this area here to the southeast of the city and east of the Community College District. There's some areas down here which is just north of the Lamy area in the general Eldorado area, a large area in San Marcos, and an additional area around the Edgewood area and the Cedar Grove area.

COMMISSIONER HAMILTON: Okay, Penny. Thank you. So Commissioner Hansen, I think you still have the floor.

COMMISSIONER HANSEN: So actually it seems that most of our growers are on less than two acres, the small residential growers, so maybe we have to include Residential Estates, which is one dwelling per 2.5 acres. I don't – Residential Community is one dwelling per acre. We don't have a Residential Estate as one dwelling per two acres. I'm just struggling with our small microfarmers.

MS. ELLIS-GREEN: Madam Chair, I have a concern about Residential Estate. Those are the kind of standard residential subdivisions. They're not traditional areas. They're the standard residential subdivisions like most of Eldorado. We don't see that we've got commercial growers in those areas. And then like Residential Community, that zoning district was established for very old small-lot subdivisions that had been approved. Again, many of the growers in traditional areas are within community districts and we will have a way to make amendments to community districts, if that is the consensus of the community.

COMMISSIONER HAMILTON: Thank you. Is that all for the moment? Commissioner Hughes.

COMMISSIONER HUGHES: Yes, I think I agree with what Commissioner Hansen is proposing and I also would not be in support of bringing it down to the residential estate level, but that's what I sort of want to hear from when we hear from the public again, whether that includes enough new land. I think we would see with a special use permit, correct? With these two new areas that we added?

COMMISSIONER HAMILTON: Conditional use permit.

COMMISSIONER HUGHES: Conditional use permit, which means they would have to prove they had the water, because I can see some of these yellow areas are places that are very dry and would not have enough water to grow even 200 plants, probably.

MS. ELLIS-GREEN: Madam Chair, Commissioners, what that would mean is through a CIP process it's discretionary. It would go through a public hearing process, so neighbors would be able to discuss possible setbacks and whatever else would be relevant in that area. Water would just be one of the items discussed. And again, it would be regulated by the OSE unless it was using a well that would require a hydrology report.

COMMISSIONER HUGHES: Thank you. The only other thing I want to add that I forgot to add before, I wanted to thank the staff for looking at the 300 feet and 200 feet distance from each other. I don't feel strongly one way or another, so I'm fine with what the Planning Commission went with unless somebody else wants to change that.

COMMISSIONER HAMILTON: Excellent. Thank you, Commissioner Hughes. Commissioner Garcia. No questions? Commissioner Roybal, do you have any further questions before I reopen public comment?

CHAIR ROYBAL: I don't at this point. I would like to hear from the public.

COMMISSIONER HAMILTON: Okay. Thank you. I too want to hear from the public but in general support Commissioner Hansen's suggestions. So I'm going to go ahead and reopen public comment. Once again, can we self-sort and anybody who would like to speak – already sworn. I think you'll just get confirmation of that. If you can just state your name and that you're already sworn in.

MS. LOMBARDI: Thank you, Madam Chairwoman. Thank you, members of the Commission again. I really appreciate your thoughtful process. It's a challenging situation with the timeline and a lot of work has gone into this. It's complicated for us those of us who are not experts in zoning. I really respect this County and I've had wonderful relationships with many staff on many levels. So thank you to everyone who works here. I made a lot of phone calls to try and get the key to that map to understand where I fit in, and I still don't know even from here.

So staring there, I've made an attempt to understand the ordinance in my free time as a working mom-farmer, and this is the closest I've got and it's still a little confusing how I would fit in. I think the most important point I would want to make is that traditional communities, the communities – my full-time job is with the New Mexico Acequia Association. We're the majority of farmers at the farmers market. I'm the past president of the Santa Fe Farmers Market. We live *pegados*, next to each other. We do not live on big farms. We do not have big ranches and big barns. We're right there. We have the traditional infrastructure of the acequias that's described as what the traditional communities are. I would really urge that we make it clear that traditional communities are permitted to have microlicenses. Whatever the proper language you all can translate that into, permitted that traditional communities can have microlicenses. They're permitted. They're permittable, you all will make it the right semantics. That would really be my summary point. I think contentions around odor are very different when you have chemical grows, when you have indoor grows. Small microgrows. I'm really, legitimately hoping I could grow on .18 acre. That's not my whole property. That's the area where I would like to grow cannabis maybe someday. And that's more than ample space with the acequia water rights that we have.

I would be happy to get all into the issues of how Cannabis Control Division is working with OSE and how those regulations – all of you should consider making comment on them, because I think we need to be very concerned about the expedited permitting and leasing that could happen and that's a whole other ball of wax that we're not going to be able to address, but the County should not think that OSE is going to make this perfectly clean and that there will be no impacts for other water users.

I think I'll leave it at that. I really hope you consider expanding the language so that it's clear that traditional communities – this is a traditional medicine and we would like to continue growing it in traditional ways. Thank you again.

COMMISSIONER HAMILTON: Thank you.

COMMISSIONER GARCIA: Madam Chair, can we bring up the map

again. We're actually talking about the map and it disappeared on me. Thank you.

COMMISSIONER HAMILTON: Who else would like to make additional comments?

MS. SEDILLO: John Sedillo, and I am sworn in. So I just wanted to add a few metrics for your consideration, really to sort of support the idea that large areas are not necessary for a cannabis microbusiness. I also want to clarify I'm not a cannabis microbusiness. As a hemp company we're vertically integrated as we enter into the cannabis space for adult use we will be vertically integrated. We're entering at the highest scale possible.

Why am I here then? I'm here to support the microbusinesses. None of this affects me at all but I recognize that this is my community. It's been my community my whole life. So that affects me.

So the metrics that I'd like to share is as a viable small business of a microbusiness owner and operator, the average cannabis plant is going to consume roughly 25 square feet per plant. So what that should tell us by some basic multiplication is that one acre or a half acre is substantially more adequate than necessary for a microbusiness license. Commissioner Hansen, when you acknowledged that we are in an arid environment and how that affects the smell you made me dance inside. This is a very key point. Planning – and I want to acknowledge their hard work – when citing that smell was a concern in the region of Washington, which we all know is vastly different than our New Mexico high desert region.

This is a very real point that Commissioner Hansen brought up. The smell again is an organic compound produced by the plant, not to get off on a chemistry lesson here, but as those plants sitting in an outdoor environment are constantly off-gassing these smells, they are at no point compounding. Therefore the smell of an open field will be substantially less than a commercial greenhouse. Yes, we have ten acres but we also have substantial greenhouses, so the smell coming from our field is virtually unnoticeable. The smell coming from our greenhouses is quite noticeable. That's because those organic compounds are building in a closed environment.

So be it an indoor environment or any controlled environment those compounds are going to build and therefore become more odorous. In an outdoor, open air environment such as a traditional row crop, this is a non-issue.

So I wanted to bring those points for your further consideration. I also wanted to clarify on my earlier testimony. I really have only just this nuanced concern with respect to limiting microbusiness licenses because of the smell issue. I am all for this proposal moving forward and I agree, it's not a perfect world and it's hard to get there some times and it takes many steps. But moving forward is certainly something that I would like to see for Santa Fe County with respect to microbusiness licenses and if that is through a special permit or another use pathway for microbusinesses, so be it, but indeed time is of the essence, so I support this moving forward but with these considerations. That's all.

COMMISSIONER HAMILTON: Thank you so much. So is there anybody else, either in person or on Webex who wants to make any additional comments?

MS. ROWLAND: Erica Rowland, and I'm already sworn in. Thank you. Thank you for entertaining us again. I appreciate that now that we've had a little time to

digest it, it's appreciated to be listened to. So my concerns are specifically 10.22.3.4, the dairy farms. I have a client in Nambe. She is zoned traditional residential. That hasn't even been discussed. I don't know where that falls in. I'd like that to at least be mentioned. She is a winery. She is already agricultural. She's like to transition into cannabis. And it appears through overlay and some of these regulations that it's going to be very difficult or not even allowed. So I'd like for that one zone to be addressed.

The smoking of cannabis products is not allowed outdoors. Is there any particular reason for that? Because do we not all agree that we shouldn't all be forced in a room to smoke each other out. I believe that outdoor concerts, gatherings, picnics, those sort of things, are more than appropriate for cannabis consumption.

And C. is access to cannabis consumption areas open to consumers restricted to persons ages 21 years or older. Again, I already discussed that and I disagree. I believe by showing our children that we need to go elsewhere to consume something and not allow them we are enforcing the stigma and we are challenging what we're trying to do by neutralizing the medicine and the lifestyle. Thank you.

COMMISSIONER HANSEN: Madam Chair, would you please point out what numbers you were referring to?

COMMISSIONER HAMILTON: Can you please come back up and repeat the section numbers, the last two that you were referring to. The first one was –

MS. ROWLAND: The first one was the dairy farms, that's 10.22.3.4. Below that is 10.22.3.6, Section A and Section C.

Oh, and I'm sorry. Thank you for asking me back up. 10.22.5 is the cannabis retailers and consumption sites not to be located within 200 feet of another. Of another? It's not each other? Because if we're doing vertically integrated they would be on the same premises.

COMMISSIONER HAMILTON: Yes. You can do vertical but --

MS. ROWLAND: Competing?

COMMISSIONER HAMILTON: It's just to keep it from taking over one whole area.

MS. ROWLAND: Saturation. Okay. Thank you.

COMMISSIONER HAMILTON: Thank you very much. So is there anybody else? We're still in public comment; here or on line?

[Duly sworn, Laurie Lindsey testified as follows:]

LAURIE LINDSEY: My name is Laurie Lindsey. I'm at 2865 Highway 14, Madrid, New Mexico, 87010, and I am under oath. My question is regarding the separation of the retail versus the consumption areas. Is that also 200 feet? And I'm wondering, that seems like a very big limitation, like if you buy a large building to be able to subdivide it into separate business. I mean, it's the same business but they might not be 200 feet apart and I wasn't real clear on that in the information.

The other thing that I'm always concerned about in Madrid is the SLDC process did not get accurate representation in Madrid, so a lot of the uses and the zonings were not really approved by anyone in Madrid. So I'm hoping that the changes to the SLDC zoning for traditional communities is truly streamlined and doesn't turn into like a three- or four-month process. Thank you. That's all I have.

COMMISSIONER HAMILTON: Thank you very much. Before I think we can potentially get your question answered. I'm going to go to the person who was online who wanted to speak. If you could state your name and if you haven't been sworn in, if you could get sworn in.

[Duly sworn, Alyson Gilman testified via Webex as follows:]

ALYSON GILMAN: I'm Alyson Gilman at 50 Tarantula Flats, Cerrillos, New Mexico, 87010, and I am under oath.

COMMISSIONER HAMILTON: Thank you. Go ahead.

MS. GILMAN: Thank you, County Commissioners and chambers and everyone attending. I just wanted to make a statement as a small family farmer that diversification is a really important aspect of how we make a living. Especially over this past year when we realized that the more we can stay close to our rural homes and make a living on our rural homes and lands, it can make it a lot better. So I just wanted to encourage the Commission to consider this ordinance as a vital aspect of small family farms and how one might be able to add to our income base rurally. Thank you.

COMMISSIONER HAMILTON: Thank you very much for the comment. One more time, is there anybody else on line or in person that wants to address the Commission

MR. MUNZBERG: Darren Munzberg from La Bajada, and I remain under oath.

COMMISSIONER HAMILTON: Thank you. Go ahead.

MR. MUNZBERG: I would just like to re-emphasize that I think it's appropriate – I'm not sure where it fits into the ordinance, but to enter specific language regarding the opportunity within the community overlay process. And I would request respectfully too that the Board of County Commissioners consider adding automatic permitting for microlicense within traditional communities, maybe to reduce the application load for overlay modifications or for variances in the future. That's all I have. Thank you.

COMMISSIONER HAMILTON: Thank you very much. Is there anybody else that cares to address the Board in this matter?

MR. CIANO: Michael Ciano. I've been sworn, and again I would just like to reiterate again that as we've heard from other constituents in the room that as a microbusinesses, as an entrepreneur you would be able to grow 200, 400 plants on an acre or less, and I would think that approaching the microbusiness category to make that as unrestrictive as possible in order to be able to help your local economy, your local community, you small farmers. And so by potentially even taking that out of the zoning process entirely I would suggest looking at it as the microbusinesses are exempt as a potential. And then if you want restrictions in zoning then you do that on people who can afford, 15, 10 100 acres, and really try to make the barrier of entry for the majority of your constituents as easy as possible. Thank you.

COMMISSIONER HAMILTON: Thank you very much. Is there anybody else on line or in person who would like to speak to the Commission?

ZAC SNEESBY: I've been trying to raise my hand.

COMMISSIONER HAMILTON: Is that somebody speaking?

MR. SNEESBY: Zac Sneesby, Cerrillos, New Mexico.

[Duly sworn, Zac Sneesby testimony had poor connectivity via Webex]

MR. SNEESBY: My name is Zac Sneesby. I'm at 25 Yerba Buena in Cerrillos, New Mexico, and I understand I'm under oath. I came because I have worked for [poor quality audio] I think that it is not as big an issue as a dairy farm. It's a null and void argument as far as smell goes. It's naturally produced in New Mexico. So the other thing I was also about is with Grow Pros, I think for small growers I think -- rather than having just across the board 200 plant limit. I'm also worried that if you limit -- My concerns were maybe the plant limit be lessened to 25 to 50 for a microgrow permitting to allow smaller entrepreneurs who are looking to getting into this and that don't have the acreage. I think having a 200 plant across the board limit is hard for some people to justify as far as water usage. Plus I'm worried about the water usage of megagrows as medical if they do up the plant count that they are allowed to grow. That's it.

COMMISSIONER HAMILTON: Excellent. Thank you very much. Is there anybody else who wants to address the Board? Hearing none, I'm going to close public comment for the second time and I will go back to Commissioners.

MR. SHAFFER: Madam Chair, could I address one thing if I could, and I'm sorry to interrupt.

COMMISSIONER HAMILTON: Absolutely.

MR. SHAFFER: With regard to the limitation on who can be present in cannabis consumption areas that are open to consumers, that comes from state law. That's not something we can change. With regards to cannabis consumption areas in which consumption is limited to consumption by qualified patients or reciprocal participants as allowed under the compassionate use act, you're not so restricted to those who are 21 years of age or older. So I just want to clarify that for the record. The ordinance does distinguish between medicinal consumption areas and consumption areas that are open, again, for non-medicinal consumers. And with regard to the latter category, state law says that they have to be limited to those who are 21 years and older. So I wanted to just address that one point if I could so that we don't end up spending time on that particular issue.

COMMISSIONER HAMILTON: Yes. I was actually going to ask for those clarifications and the other thing that was commented on had to do with traditional communities. And during the course of -- and very small growing areas. During the course of the discussion this afternoon, I think one traditional community is an overlay district that allows; one doesn't. In general, Penny, can you make some clarifications about whether -- and I hope the designation "traditional communities" that's what's listed on the zoning map and I assume that covers it. Can you make some comments about the ins and outs of including traditional communities as allowable areas?

MS. ELLIS-GREEN: Madam Chair, Commissioners, maybe we could have IT pull up Exhibit F from BoardDocs. Daniel, would you be able to do that?

COMMISSIONER HANSEN: Madam Chair, Penny, what is Exhibit F? Or is it Exhibit S?

MS. ELLIS-GREEN: Exhibit F, F for Frank. That is the use table for the community districts.

COMMISSIONER HANSEN: Thank you.

COMMISSIONER HAMILTON: Of course. Thank you.

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MS. ELLIS-GREEN: Okay, so we can look through this and I understand that we're talking about the outdoor grow issue at the moment. So the way the ordinance is written it would allow outdoor grow where dairy farms are. So on each of these it's going to be the very bottom row that you're looking at.

COMMISSIONER HAMILTON: Thank you. Got it.

MS. ELLIS-GREEN: So as you can see, in the first zoning district, Cerrillos, they are not allowed in those zoning districts. And if we can scroll down to the second page, that's Tesuque, it's not allowed. The third page, Madrid, it's not allowed. The fourth page, San Pedro, again, not allowed. But the next one, La Cienega, if you scroll down a little more you can see that this use would be allowed as a permitted use in Ag-Ranch and in the Rural Fringe a conditional use.

The next one, Arroyo Seco, it's allowed in the traditional community and also as a conditional use in the Commercial Neighborhood. The next one is the 285 South; they do not allow these uses. The next one, Tres Arroyos, again, they do not allow those uses. They just have the one zoning district. Agua Fria, their zoning districts do not allow this use. The next one, Pojoaque Valley, that's allowed as conditional in traditional community. San Marcos is the next one; they're not allowed in those zoning districts, or the next one, Galisteo.

And then the last one is Chimayo, allowed as a conditional use permit in Rural Residential, Residential Fringe, Residential Estate, and traditional community.

COMMISSIONER HAMILTON: Okay, so let me either rephrase or restate the question somehow. If outdoor grow is treated the same as dairy farms, that's what would happen. But if I'm not mistaken, the proposal was to take that out and to allow it as a use –

MR. SHAFFER: If I could, Commissioner, and I'm sorry to interject, and I understand where you're going and I think the issue is this. The community overlay districts use different zoning districts. They're from our list but you'll see that they are potentially different in terms of the specific designations that they utilize. So a traditional community is something that we use on the use matrix that applies countywide if there's not a community overlay. But when you drill down into the individual community overlays they may use a slightly different terminology, or is it consistent?

MS. ELLIS-GREEN: Madam Chair, Commissioners, they use the same zoning districts from our overall list of zoning districts in Chapter 8, but they did designate where they wanted to have the different zoning districts located. So for example, the old code had traditional community throughout a number of our traditional areas, and when those areas came in to do their own community planning they designated which area they wanted to remain to be called traditional community and which would be their commercial neighborhood, their Residential Estate, etc., etc.

COMMISSIONER HAMILTON: So I understand. The point is most of the traditional communities actually have overlay districts is one point. And the other question is, you're judging whether they would be allowed in these different traditional communities based on whether they've already decided to allow or not allow dairy farming. If we take that terminology out and we're shifting to allowing it as a permitted use in Ag-Ranch – I wanted to get back to the map. It's not letting me go back.

And the top two – and Rural, and as a conditional use in Rural Fringe, Residential

Fringe and the other one, the third one. There'd be three where they are conditional uses. It doesn't speak to traditional communities, but we would be taking out the dairy farm analogy. So that would not be a rule of thumb. So would it be reasonable to add in traditional communities unless – there's no way an overlay district has spoken to the permissibility of cannabis because it wasn't an issue before. And so what I'm trying to ask the question is how we can potentially allow it in traditional communities, maybe giving a timeframe for them, those that have overlay districts to specifically review it with their communities and speak to whether they want to have cannabis or not.

In other words, I'm wondering if there's a way for us to put in the ordinance something about traditional communities that doesn't preclude it and gives them a timeframe for allowing it. Does that make sense?

COMMISSIONER HANSEN: Yes, Madam Chair.

COMMISSIONER HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: That was where I was trying to go is I want to remove dairy farms as the defining issue so that we don't have to say, well, in Agua Fria you can't grow cannabis because you can't have a dairy farm. I understand why you were using that because of the odor, but that doesn't really work when you're talking about a traditional historic village that agriculture is one of their main products. And they may want to be able to do that but they never wanted a dairy farm.

MR. SHAFFER: And I think if I could maybe respond to that in hopes of moving the conversation forward, and I think we're all saying the same thing is that if that community in that instance were willing to revisit things then we would do that through the community planning process where you would hear from the community through that planning process, to say your default rule doesn't work here. We would like a different set of defaults. That was the premise, I think of what Growth Management staff brought forward. So now, if I could, again, it's policy. You tell us what to write and we'll write it.

COMMISSIONER HAMILTON: No, I understand that.

MR. SHAFFER: Is that in looking at the use tables for the different communities, regardless of what category you're looking at, and let's just leave the dairy farm to the side, you'll see that all the different communities approached different land use considerations differently. And there's not uniformity amongst the overlay districts and how they treated anything. Just take dairy farms. Take whatever it is that you want to look at. They didn't all treat them sort of the same way. And so staff, I think was trying to bring forward some default rules so that you don't have disputes as to, well, you didn't specifically regulate it; where do I fit in. Because I want to say I'm allowed to do it under the existing table so that we have a set of rules that could then be revisited on a community by community basis. That's all I wanted to add. But you're right. If you go in and you say in traditional communities, whether it's in an overlay district or elsewhere in the county, it's now a conditional use, then that's what you would be saying is that you'd be looking at site-specific compatibility throughout the entire county. I think if that was your question you made that distinction.

COMMISSIONER HAMILTON: My question is, since we're proposing to take out the rule of thumb of wherever dairy farms are permitted, but we were retaining some of the results of that. We were retaining that it would be a permitted use in

Ag-Ranch and Rural, and become a conditional use in Rural Fringe, Rural Residential, and Residential Fringe. Right? It doesn't speak one way or another to traditional communities. And so I wonder if we can add traditional communities as a conditional use or with the addition of whatever language, although I think it's implicit, that because most of these areas are community overlays that they always have the right to come back and revisit that. But if we needed to include some acknowledgement of that, so that would be my suggestion in addition to Commissioner Hansen's. Penny.

MS. ELLIS-GREEN: Madam Chair, could I just have clarification. I had thought that the discussion earlier was related to microbusinesses and not all outdoor growing. So actually, 10.11.2, 3, 4, -

COMMISSIONER HAMILTON: No, I actually disagree. Because the outdoor growing is – the concern was limiting outdoor growing to only to where dairy farms excludes all the farms that are potentially microbusinesses. We're adding in areas for outdoor growing so that people in small areas with small acreages could do microbusinesses. Isn't that correct?

COMMISSIONER HANSEN: Madam Chair.

COMMISSIONER HAMILTON: I'm sorry. Technically Commissioner Hughes had his hand up first and then Commissioner Hansen.

COMMISSIONER HUGHES: Yes, I think I can clarify. I think what we're thinking is that like you said, it's a permitted use where dairy farms would be permitted. So that's the first two – Ag-Ranch and Rural. And then it's a conditional use in Rural Fringe, Rural Residential, Residential Fringe, and traditional community.

COMMISSIONER HAMILTON: That's what I said. And that's related to outdoor growing. Because indoor growing – greenhouses are allowed anywhere in the county.

COMMISSIONER HUGHES: But I think we need to add that the conditional use that we're adding is for microbusinesses, which can be outdoors.

COMMISSIONER HAMILTON: Say that again.

COMMISSIONER HUGHES: So we would be adding conditional use for microbusinesses in Rural Residential, Residential Fringe and traditional communities, which could be either indoor or outdoor. I think that's what you meant.

COMMISSIONER HAMILTON: Penny, can you define whether that's the microbusiness question? I thought microbusiness was a description of a certain size, as long as you can have outdoor growing you can have a microbusiness any place. So it was inclusive of microbusinesses. I think we're on the same page of what we want to achieve. It's just the terminology I want to make sure we have straight.

COMMISSIONER HANSEN: I think the terminology is where we're stumbling. But what Greg is saying is that – I will try and make it succinct. Okay. What I'm hearing is that Ag-Ranch and Rural-RUR, dwelling 40 acres, and Rural Fringe can use the definition of dairy farms.

COMMISSIONER HAMILTON: Forget dairy farms.

COMMISSIONER HANSEN: Okay. Because you're talking about large grows. In those situations –

COMMISSIONER HAMILTON: In Rural Fringe for dairy farms is already a conditional use. So those three aren't the same, if you're doing dairy farms.

COMMISSIONER HANSEN: But what I am concerned about is making it easy and making it simple for microgrowers. That is my concern. The big guys, they need to follow the rules. If we want to use dairy farms to describe the big guys and the large groups, I'm fine with that. But I'm not fine to use that description in the traditional villages, in the traditional areas. So I don't know how you define that. I'm sorry that we're doing this at the late date, but I think this is a big issue throughout the county for many people and I don't want to see the small farmer be pushed aside.

COMMISSIONER HAMILTON: Go ahead, Penny, because I think what we need is the clarification on the use of microbusinesses and where it appears in the regulation and whether it's really an issue of where outdoor growing is. No, I'm going straight to Greg. Go ahead, Greg.

MR. SHAFFER: So microbusiness is defined under the Cannabis Regulation Act. We're importing that definition into the SLDC. If you are making uses conditional what you're saying is that you will, through a public process evaluate site-specific compatibility uses with surrounding areas. So that gives someone the ability to come in and ask for a discretionary use. That is discretionary – it would go through a process where the public could speak out to say that particular use is not compatible in this particular site for x, y, z reasons. And those are set forth in the SLDC under the conditional use procedures.

So when you say that something is conditional you're saying you're going to evaluate it on a case-by-case basis and you're going to evaluate what it is that its proposed use in the surrounding areas. So just for clarity, I think you all know that but I want to say it for the record so that we're not speaking past each other. When you say it's a conditional use that means there will be a public process that would ultimately come before the Board.

So I say that because if the direction is to make production conditional in those additional areas we could go and draft language to that effect if that's the direction that we're being given. And that's what I heard at least two Commissioners say they would like the direction you would like to see us go in.

COMMISSIONER HAMILTON: So it sounds to me like we're talking about changing that any outdoor growing is acceptable in Ag-Ranch – is permitted in Ag-Ranch and Rural. Any outdoor growing is conditional in Rural Fringe, and microbusiness growing is conditional in Rural Residential and Residential Fringe and traditional communities. Is that –

COMMISSIONER HUGHES: Yes.

COMMISSIONER HANSEN: I'm struggling because we're dealing – you're saying under the first reading of this rule I was under the impression that large growers could not grow outside. Am I missing something?

COMMISSIONER HAMILTON: Yes. They can grow outside in any district where dairy farms – so we're taking the dairy farm terminology, but retaining the areas. So they can grow outside at any size in Ag-Rural, or conditionally in Rural Fringe.

COMMISSIONER HANSEN: Okay. I just want to make it also easy for these microgrowers to get a license and not that it's a really heavy lift for them, that they have to hire an attorney, they have to do all this work to get a permit or a license to grow on a small area. That's the other concern I have.

COMMISSIONER HAMILTON: So we were trying – I thought this discussion was going to that we were adding specifically small growers, microbusinesses, into the three additional areas as conditional uses. Commissioner Garcia.

COMMISSIONER GARCIA: I just want to try this. So what we're saying is microgrowers are allowed everywhere in the first three green areas up there. One, two, three. Right?

COMMISSIONER HAMILTON: Any growers are allowed there.

COMMISSIONER GARCIA: Not full commercial growers such as a comparison to dairies.

COMMISSIONER HAMILTON: Yes. In the Rural and Ag, yes.

COMMISSIONER GARCIA: So anybody can grow in the top three areas, and also microgrowers are allowed as a conditional use in traditional communities. Yes? No?

COMMISSIONER HAMILTON: No. And in Residential Fringe and Rural Fringe.

COMMISSIONER HANSEN: Residential Fringe and Rural Fringe.

COMMISSIONER GARCIA: The first three green areas are the three we're talking about. Also in traditional communities. Right?

COMMISSIONER HAMILTON: Yes. But you keep saying the green areas. Rural Residential and Residential Fringe are yellow. So that's why I had the confusion.

COMMISSIONER GARCIA: Okay, so then let's go through the colors. So the first one is allowed, green. Then the lighter green is allowed. The third one is allowed. The fourth one is allowed. The fifth one is allowed. Correct? And traditional community.

COMMISSIONER HAMILTON: I don't know what allowed means.

COMMISSIONER GARCIA: For microgrowers. The first –

COMMISSIONER HAMILTON: Okay.

COMMISSIONER GARCIA: Is that correct?

COMMISSIONER HUGHES: That's what I understand.

COMMISSIONER HANSEN: That's what I understand.

COMMISSIONER GARCIA: So once again, just so everybody's – the first green, the second –

COMMISSIONER HAMILTON: So there are two different things being agreed to. So the question is that I'm putting to each Commissioner, in Rural Residential and Residential Fringe and traditional communities – they do not necessarily have to be treated all the same. Are we talking about microgrowers, microbusinesses, being a permitted use or a conditional permitted use?

COMMISSIONER HUGHES: Conditional.

COMMISSIONER HANSEN: So if we make it conditional, it's a heavy burden for these small –

COMMISSIONER HAMILTON: My understanding from the state law it has to be conditional? Okay, it does not. So go ahead.

COMMISSIONER HANSEN: So my concern is these small growers in these traditional communities are going to have a heavy burden to get a conditional use

permit. Because if you remember what a conditional use permit is: the truck stop is a good example of what we had to go through a conditional use. So they have to have public hearings. They have to have a couple public hearings to get that. I can see that probably Serafina in the back, that's going to be a heavy burden in her community. But at the same time, if her traditional community agrees that they are allowing that to be a permitted use – I'm struggling.

I'm sorry, Penny, that this did not come up sooner and that we didn't have this discussion about this. I know we're under a lot strain to get something done and I'm trying to come up with a way that we make sure that we're making the small grower have a pathway for an income. And at the same time make the regulations strong enough and heavy enough for the big business, the macrogrowers, that they have to fulfill all the rules and regulations because they can afford it. Whereas Serafina in the back probably cannot.

And so that's what I'm struggling with right now.

MR. SHAFFER: Thank you, Madam Chair. We're talking about compatibility of uses, as opposed to size, and size may be a factor in that. I'm not hearing unanimity in terms of which direction folks would like us to go in. If it's conditional in those additional areas – I'm saying if it is, not that that's what you want – then it allows an interim path forward while the individual communities can decide as a community group, do we want to just greenlight these as permitted uses, so that they don't go through that process.

So if you go down that path, it's an interim path forward which the communities do their own work to see, well, maybe we do want to just permit these and we don't want to go through any sort of process, would be one way to think about it.

COMMISSIONER HAMILTON: I just want clarification.

MR. SHAFFER: Please, go ahead.

COMMISSIONER HAMILTON: You're talking about doing it as a conditional use for traditional communities and that would allow – that's what you're saying. Okay. Thank you.

MR. SHAFFER: That's correct. That would be an interim path while the communities have the time to come to you with a consensus view that this is what we want in our communities. If they're permitted – and that's the switch that you throw, then they're permitted as of right. There's no public process to go through. There's no – while the communities have the opportunity to look at it and decide as a community that this is what we want, or this is what we don't. Does that make sense?

COMMISSIONER HAMILTON: It does. So that gives some clarity. I think we have clarity on Ag and Rural, and traditional communities. That leaves Rural Fringe, when the terminology was dairy farms. Dairy farms are conditional uses in Rural Fringe. So the question to the Commissioners is does that still seem reasonable, and it leaves Rural Residential and Residential Fringe. I suppose – I'm not in favor of making things difficult for people, for the small users. That's always what happens. But I wonder – it bears a little discussion – whether there are Rural Residential and Residential Fringe areas that are fairly rural and there's some – at least the comment was made that Residential Estate is – they're just developments. That's not a place, most of them, where people do farming.

So the question is do we want Rural Residential and Residential Fringe as a

conditional use because it allows the community even in those areas to decide whether – most of them are not very cohesive communities. They're just zoning areas. So I'm not sure who would get together to make those decisions, but there would at least be opportunity for public input on the permits, or should they be permitted uses, the microgrowers. Commissioner Hughes.

COMMISSIONER HUGHES: Yes, I think in the Rural Residential and the Residential Fringe, the yellow areas, I think it should be a conditional use because looking at these a lot of these are primarily residential areas where I think the neighbors might want to have some input as to whether one of their neighbors decided to dig a well and start growing cannabis on their property. I think it's appropriate that that be a conditional use. I really like the way Greg described it, that if we make everything a conditional use for now, the traditional communities or any of the overlay communities can override us basically and say, no, we just want to allow that for all of our people on our acequia, if they want to. But we wouldn't have to make that decision for them today.

COMMISSIONER HAMILTON: Correct. Other Commissioners?

COMMISSIONER HANSEN: So I think we have given Greg and Penny some work to do, and I'm wondering if we want to suspend or recess until Monday or Tuesday.

COMMISSIONER HAMILTON: It's not announced. We would have to wait until we could notice another meeting.

MR. SHAFFER: Madam Chair, Commissioner, the drafting is not that hard. If that's what you want us to do just take short 15 minute break and we'll come back with the language that is consistent with our understanding. We don't need all weekend to do that.

COMMISSIONER HANSEN: Okay. Great.

COMMISSIONER HAMILTON: So I'm going to call a recess and we'll come back at 4:00 pm.

COMMISSIONER HANSEN: Okay. That sounds perfect. Thank you.
[Following a motion by Commissioner Hansen and second by Commissioner Hughes and unanimous voice vote, the Commission recessed from 3:42 to 4:20.]

COMMISSIONER HANSEN: Madam Chair, I wish to make a motion to come out of recess.

COMMISSIONER HUGHES: Second.

COMMISSIONER HAMILTON: Thank you. So a motion and a second.

The motion passed by unanimous [5-0] voice vote.

COMMISSIONER HAMILTON: So we're waiting to get the draft terminology up shared on the screen and it's also being distributed in hard copies in the room. As soon as that's up on the screen I'll go to Attorney Shaffer and Director Ellis-Green to present what they've drafted.

MR. SHAFFER: Thank you, Madam Chair and Commissioners. We attempted to draft, generally speaking, what we understood to be the direction of the Board. T.J. if you could scroll down to page 3 of 10. It's 10.22.3.4. The first proposed revision concerns where cannabis plants can be cultivated outdoors. The proposed

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language in front of you would make that a permitted use in all Agriculture, Ranching and Rural zoned districts, including those that are located in community overlay districts and would make the outdoor cultivation of cannabis plants a conditional use in all Rural Fringe, Rural Residential, Residential Fringe and traditional community zoning districts.

That's what we had understood the direction of the Board to be, with one caveat, w which is this: In our draft we did not propose to distinguish between cannabis producers and cannabis microproducer/microbusinesses, for the following reason. If it's a conditional use, what that means you're going to look at site-specific compatibility issues, and if you are making a site-specific decision as to whether or not a use is compatible with the surrounding area, it did not seem, from the land use perspective, to be material as to whether or not you are a cannabis producer or cannabis producer microbusiness, because you're going to take size into account when you're making the site specific determination of whether or not the outdoor cultivation is actually compatible with surrounding areas.

The next proposed revision is on page 5 of 10, and it's a new proposed Section 10.22.10. And this was added, really for the avoidance of doubt and in order to recognize the stated desire of individual Commissioners as well as community members that this not be a one-size-fits-all ordinance for all time, but instead would recognize the fact that individual community-specific rules could be developed and adopted through the community district overlay process and in ordinances that are adopted after the effective date of the ordinance that you have in front of you.

So we'd be pleased to stand for any questions as to the drafting. If we got the direction wrong or if there are other proposed revisions we'd be pleased to have another go at it. Thank you.

COMMISSIONER HAMILTON: Thank you. So it seems to me this covers it appropriately. Do other Commissioners have questions or want to weigh in?

COMMISSIONER HANSEN: Madam Chair.

COMMISSIONER HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: So I'm still concerned. I know that there's a lot of state law involved with this also that the small microbusinesses also are going to have to go through state law, but a conditional use is also a heavy lift to go through, taking six months with a permitted use is relatively easy. Do we want to – I'm just going to throw this out there and I want a discussion about it, but do we want to make it all permitted use? Because they already have to go through state law, but I know that state law doesn't deal with zoning and that is kind of what we're dealing with here.

I don't mean to throw another wrench into the mechanism, but I don't want to make it more difficult for these small microgrowers. It seems like we have just now made it much easier for the big guys and the small guys we've made it more difficult by making it a conditional use, because they have to go through and jump through all these – I'm just thinking about with a conditional use we have the right to turn it down; with a permitted use we do not, and I recognize that.

So I'm using the two examples we had, the General Dollar store that was a permitted use. We couldn't really not say they couldn't be there. With the truck stop, we could say you can't be here. So I'm just posing this question, and maybe Greg or Penny would like to answer me.

COMMISSIONER HAMILTON: I think that's also for the other Commissioners to weigh in on.

COMMISSIONER HANSEN: Oh, yes. Of course.

COMMISSIONER HAMILTON: Maybe we could go down the line. Commissioner Hughes.

COMMISSIONER HUGHES: I do understand the – I agree that that's a dilemma, and I'd like to hear more, especially about what the state requirements are and whether those might be enough to – I guess my concern about not making it a conditional use is would neighbors have any input into the decision. And I'm not so worried about traditional communities where everybody's growing something anyway, but someone who was going to start a farm in a place that had been just residential. It might be a bit of a problem. But I'm certainly interested in hearing what everybody else has to say.

COMMISSIONER HAMILTON: Commissioner Roybal, are you on?

CHAIR ROYBAL: Yes, I'm here, Commissioner Hamilton, and I do agree that I want to make sure that we take into account – I want to more opportunities for some of the smaller businesses and microgrowers. I would be okay to changing it to a permitted use versus conditional. Just my thought, but I do say I want to thank staff for putting that together in a small amount of time [inaudible] have some concerns.

COMMISSIONER HAMILTON: So Commissioner Roybal, I'm going to repeat because I don't think I caught everything you said. Did you say you would be okay with it being a permitted use as opposed to a conditional use?

CHAIR ROYBAL: That's correct.

COMMISSIONER HAMILTON: It's interesting, because I want to make sure everybody's protected, the Dollar Store example, that was an industrial development area, a business development area, designated by the community as a business area. That's why it was a clear permitted uses. We're talking about residential areas, and it makes sense, the concept, to me, anyway. It's just my opinion, of having the zoning areas where we are specifying Residential Fringe, etc., etc., there is some range of activities across the whole county in areas that are zoned similarly. So it's not uniform. And I think that's the ability to take compatible uses into account. That's the appropriate language for recognizing that variation and giving the community an opportunity to weigh in.

So I don't want to make things more difficult but I feel like being on the side of being somewhat conservative, because there are some areas where making this a permitted use might be inappropriate, even if in many areas it wouldn't be, because we've included these areas. Yes, Attorney Shaffer.

MR. SHAFFER: Madam Chair, I just thought, again, to reflect upon the conversation that got us to this draft, which is that this is an initial set of placeholder regulations, and that the expectation is that individual communities, including the traditional communities will go through a planning process if they choose to involve the entire community to decide what they think is appropriate relative to these issues. And I thought it might be useful if Ms. Ellis-Green could describe a little bit more what that process looks like, just to remind everyone what a true community development process would look like so that you would have some assurance that if that process were followed the entire community would be involved, or at least we would make every effort to make sure that the entire community was involved. Would that be useful, Madam Chair?

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COMMISSIONER HAMILTON: Sure.

MS. ELLIS-GREEN: Thank you, Madam Chair, Commissioners.

CHAIR ROYBAL: Madam Chair, this is also going to go to detail on what it would take for a community to come forward to engage in choosing the community overlay plan. Is that correct

MS. ELLIS-GREEN: Madam Chair, Commissioner Roybal, yes. It would allow communities to come in and amend their community overlay?

COMMISSIONER HAMILTON: Or develop?

MS. ELLIS-GREEN: Or develop one, yes. We are working with one additional community right now, La Bajada, and we're also amending two overlay districts at the moment, for more reasons than this. But when we do that we come to you with a resolution creating a planning committee in a community overlay area and we look for representation throughout the community. But through our process, we do do mailings to every single person within the community. So it's not just people who come to the meetings. You will get notification that this is happening if you live in the community.

It's also for people who run a business in the community. So if you live somewhere else but you run a business in the community, if you own property in the community or if you live in the community, you could get notification of the changes. We also do community-wide meetings after a planning committee has got a draft. So there's a lot of community involvement when we go through one of these procedures. Now, obviously for this, if that's just the section that's being amended, we're going to come up with a streamlined way of going through so we're not taking two or three years to go through a community planning process.

And we would bring that back to the Board as far as what our process would be, and try to streamline the communities if they want to go through a process to make amendments.

CHAIR ROYBAL: Madam Chair.

COMMISSIONER HAMILTON: Commissioner Roybal.

CHAIR ROYBAL: Another question I had, Penny, and so just for the constituents' edification, or those that are present. What would trigger the start of looking at the community overlay plan to make changes, whether it's on this subject or any other thing? Is that just a call to your office, or how would they proceed in trying to get that ball rolling?

COMMISSIONER HAMILTON: We got most of the words and I think Attorney Shaffer got most of them. So if you'll summarize what the Commissioner asked and then answer it I'd really appreciate it.

MS. ELLIS-GREEN: Madam Chair, Commissioners, I believe what the Commissioner was asking is how a community process would start. And when you go through a community process you form a community planning committee. They don't continue although many of them form community organizations or registered organizations. So we can reach out to the COs and ROs that we have existing, to reach out to them, ask them if they want to do this. Otherwise, communities can come straight to us.

COMMISSIONER HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: Madam Chair, thank you. Thank you, staff.

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So I'm going to use my communities as an example. When you're talking about either adoption or amending an existing community plan, because I think it's about – it's near the time whenever some of my communities need to revisit their community plan for several reasons. One them, La Cienega. We have a new board. That board may want to take a different direction. Possibly Cerrillos. They still have the existing individuals. It passed in Madrid where we may need to adjust that community plan.

And so whenever we do a community plan, overlay, everybody gets involved. I understand that. So explain to me on number 2 here where it says a conditional use in these Rural Fringe, Rural Residential Fringe and traditional communities. What does a conditional use mean? And what process do they need to go through?

MS. ELLIS-GREEN: A conditional use is where you submit to the County kind of a conditional use permit. So you'll have a site plan or report that addresses landscaping, lighting, signage, anything that's relevant. And a conditional use permit will go in front of the Hearing Officer and Planning Commission. As opposed to submitting the same things, but a permitted use doesn't have any discretion in it, and you would get an administrative approval.

COMMISSIONER GARCIA: So Madam Chair, just the concerns I had, if I'm a neighbor, and notification for conditional use is how? Notification for permitted use is how? I just want to know – I'd like to know if I'm a permitted use in this district, what notification do I have that my neighbor here, Commissioner Hamilton, is going to grow, have the garden. And under conditional use then what is the notification I get from her proposal?

MS. ELLIS-GREEN: So under a site development plan, which would be an administrative approval, we put a yellow poster board on the property. Or the applicant does. No other notice. If you're doing a conditional use permit, you would notice in the New Mexican and to your neighbors, as well as the yellow poster board, because you're going through a public hearing.

COMMISSIONER GARCIA: So if the County Commission was actually to say, okay, we're going to allow this permitted use because we're having to come up with these guidelines because of the state legislature and another topic is going to be where you can smoke and where you can do it and all that. We'll get to that not today. So if it's a permitted use, the County Commission can say, okay, it's a permitted use under so many plants because the state law is allowing it, and so we're being a little – Santa Fe County is being a little more pro-active and saying state law says we don't have to do this. We're creating some regulations. What is the process for this greenhouse, this outdoor growing? That's where we're at right now.

And so if we allow it as a permitted use we can actually tack on there and say you must put a yellow board on your property for 15 or 30 days. You must notify everybody within – whatever the Commission chooses – 100 feet, 200 feet, and notify every one of those property owners by a certified mail. They'll come in and they'll say I want to get this growing license, okay? Notify everybody within 100 feet or 200 feet, whatever we come up with, certified mail. People will get it and say, hmm, my neighbor wants to do this. I have the right to appeal the permitted use. That's allowed by the code, and if I want to appeal that permitted use then it comes in front of the Planning Commission then it will actually come in front of the Board of County Commissioners. And then at that time

it still opens up for a public hearing. And so if nobody has an issue with their neighbor growing then the permitted use is allowed. Correct?

MS. ELLIS-GREEN: A permitted use can be appealed on to the Planning Commission but it doesn't allow discretion. So what a conditional use permit would allow is discussion between the neighbors about is this the correct location? Can there be a setback, etc., etc.? Whatever else may come up during the discussions of a conditional use permit.

COMMISSIONER HAMILTON: So if I may – oh, do you have more questions? So let's go around. Commissioner Hughes, and then Commissioner Hansen.

COMMISSIONER HUGHES: So I think what we're struggling with here is how to not be too permissive but not be too strict on the people, the smaller growers. And I wonder if one of the things we could think about, and this is probably a bad idea but I'll just put it out there. We could put the traditional communities up in the permitted area but leave the Rural Fringe and Rural Residential as conditional uses. Or, another thing we could do is leave it as is but allow – add something to the permitted use that it's permitted in this area plus anywhere that dairy farms would have been allowed, which would allow some of the communities that would have had dairy farms to automatically have cannabis.

COMMISSIONER HAMILTON: Did you guys have a response to that? Commissioner Hansen, did you have something?

COMMISSIONER HANSEN: So I think what we're struggling here with is over-regulation. What we're struggling with is some small microgrower has got their state permit and they want to come to the County, and then the County is going to make them jump through 15 more hoops. Like putting it in the paper and notifying everybody. I'm just struggling with this. I don't want to be too loose and I don't want to be too tight. And I want to make it easy for the microgrower and I don't know if we're doing that by what we have just done. So I'm just struggling.

COMMISSIONER HAMILTON: Okay so I'm going to take my turn to speak my mind. The microbreweries is a good example. If there are areas of any size and we've put areas that include Rural Fringe in East Glorieta and Residential Fringe in Glorieta proper, if it's a conditional use – if it's a permitted use Jack Daniels can come in and put a very large brewery because it's a permitted use. There's nothing against it. Even a microbrewery might not be to the liking of most of the constituents. If it's a conditional use those constituents, whoever applies to the County, and the County evaluates it. They do whatever compliance – and it goes to the Planning Board, with all the notification.

If nobody in Glorieta goes to the Planning Board and says this is a number one bad idea. This has nothing to do with our community. We don't want it. Or if everybody in Glorieta goes and says this is a great idea. We support micro- It goes through. It never comes to us. It's not that big a lift. In a way, the Dollar Store is kind of a – it's a slightly unfair comparison. Because it was a permitted use but nobody wanted it, but they didn't do the right thing to get rid of it in the first place when they were setting their business district. Right? So there was nothing to be done about it. They had made that decision a long time ago. And yet they still had the opportunity to take it up and appeal it from the Planning Board to us.

If somebody applies for that microbrewery in Glorieta and everybody objects to it and it's a conditional permit and the Planning Commission approves it anyway, they either leave it or appeal it to us. For something at this level I don't think it's – I don't think we're adding 16 hoops. It's kind of arbitrary. And no matter what, there are things that are going to have to make demonstration of if it's a microbusiness or a regular size business.

So those things are – we're not going to get rid of those things. I don't think we have on the table automatic permits like with no conditions. I don't mean conditions as in conditional uses. With no demonstrations that have to be made to show you have water, you have the land and you have the whatever.

So in my opinion we have expanded the areas where it would now be easy to get a permit unless there's substantial community opposition, and there always remains the opportunity to modify the ordinance, directly or through an overlay district.
Commissioner Hansen.

COMMISSIONER HANSEN: I agree. That is the one thing that I feel we are under this pressure. We need to get this done because we want rules in place by the time the state law – and we have the ability to change this ordinance. We have changed the SLDC when we saw that things didn't work, the driveway permit being one example, and so maybe this is what we do for now, recognizing that we have included the traditional historic villages by this addition of 10.22.10. Correct? And that we can go forward and hopefully we haven't created too much obstacle for our community.

COMMISSIONER HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: Madam Chair, I'd like to make a motion.

COMMISSIONER HAMILTON: Go ahead.

COMMISSIONER GARCIA: If everybody can go to page 3 of 10.

COMMISSIONER HAMILTON: Hang on. You're making this as a motion? You're making a change? Did you propose the change and allow discussion on it? Go ahead and make the motion. I guess that's correct, if that's appropriate.

COMMISSIONER GARCIA: So with the understanding that the Rural Fringe, Rural Residential, Residential Fringe areas, if we can put the map up there as well, is – in the Sunlit Hills area, south of the Community College, where there is established residential areas. And I understand where the Agricultural, Ranching and Rural zoning districts are. A lot of it is – it's interesting because my district has an array of different types of uses, anywhere from – I always include this – is Airport Road, La Cienega, all the way down to Cerrillos, Madrid, San Pedro – all the way.

There's different types of uses that happen in this area. So I'd like to make a motion that we actually approve this ordinance as presented, subject to this change on page 3 of 10, which number 2 will read "A conditional use in all Rural Fringe, Rural Residential, Residential Fringe." And number 1 would be, "A permitted use in all Agricultural, Ranching, Rural zoning districts and traditional community districts. And the reason why I'm doing that is this is actually – or proposing that, is we are talking about the use and where it's allowed. I'm definitely taking into consideration where we've received a lot of letters, emails, in regards to the acequias, to the water issues, which has not yet been addressed by the state legislature and/or the State Engineer's Office. That's coming forth.

And if the community out there in a traditional community, whether it be La Cienega, Arroyo Seco, whether it be Cañoncito, if they feel that they want to redo their overlay district, they can talk with our Planning Department and say we want to change these uses because we don't want this or we do want this, and so on and so forth. I'm taking into consideration all of this stuff, and I would like to make that motion, and with another item, which says, under 10.22.3.3, right above the red ones here, it says a cannabis producer or cannabis producer microbusiness, the small individual businesses, that cultivates cannabis plants indoors shall be treated the same as the following use, which is a commercial greenhouse.

A commercial greenhouse to me is Newman's Nursery. And so if you have these micro, individual, local owners, I don't feel that we should be treating them as a commercial greenhouse, because once again, a commercial greenhouse to me is Newman's Nursery. And that's kind of – I would like to take that out of 10.22.3.3. And I would like to make that as a motion. Thank you, Madam Chair.

COMMISSIONER HAMILTON: You're welcome. So there's a motion on the floor.

COMMISSIONER HANSEN: I'll second it for discussion.

COMMISSIONER HAMILTON: Okay. I have a serious problem with these changes. None of them were discussed and I think some of them are highly inconsistent with what we discussed, but under discussion. Commissioner Hughes.

COMMISSIONER HUGHES: Well, the first part of what Commissioner Garcia proposed was very similar to what I was asking about, is could we move traditional communities up into number 1 and making them a permitted use, but I wanted to hear what staff has to say about that part of it, and then we can talk about this other part of Commissioner Garcia's proposal, which I didn't actually follow too well. But the first part which relates to what we've been talking about all along. What would be some of the problems if we moved traditional communities into just the permitted use section?

COMMISSIONER GARCIA: Madam Chair.

COMMISSIONER HAMILTON: No, there's a question on the floor, and I'd like to get an answer to that and then I'll go to you.

MS. ELLIS-GREEN: Madam Chair, Commissioner Hughes, moving the traditional communities into permitted uses, what that would mean is it's not discretionary, so even if there's an appeal, you would need to find really a section of the code that they didn't comply with rather than is it compatible? Is it not compatible? So I would throw that out as a concern that really this isn't compatible right here isn't some something that you would contemplate during an appeal.

COMMISSIONER HUGHES: And so, Madam Chair, Penny, would the traditional communities or the overlay communities be able to override that section and decide for themselves that they didn't want to permit it in their community, even if we had just permitted?

MR. SHAFFER: Yes and no. Yes, they could, but for anything that came in and got the development permit, no. That horse would be gone and it would then be a permitted use that under the Cannabis Regulation Act, you couldn't make them move.

COMMISSIONER HUGHES: Thank you.

COMMISSIONER HAMILTON: So for the record I want to say that

traditional communities is where we've had this whole discussion about giving them the most discretion and a conditional permit until they have the chance to come in and say what they want to do, would mean somebody could apply for the permit but people in the community could come and say yes or no. Lots of people, if everybody agreed, would be able to get permits and it would be consistent with the community's wishes. And what we're doing, if you make it a permitted use, you're completely overriding that. I don't get that at all.

And the other thing I have a problem with is we've had no discussion on prior opposition or discussion on the issue of indoor businesses. If it's indoor growing, it is a greenhouse business. It can be any size. I think greenhouses – the question was already asked that greenhouses are not highly restricted where greenhouses are allowed.

MS. ELLIS-GREEN: Madam Chair, in the countywide zoning use table they're allowed in every zoning district. They are conditional in the Rural Residential, Residential Fringe, Residential Estate, Residential Community, traditional community. Those are – most of those other than traditional community are standard residential. They are allowed either as a C or a P in every zoning district. Some communities have chosen that they do not want commercial greenhouses, and we have commercial greenhouses in the county that are – I'm not sure if we do have any that are retail like Newman's Nursery or Payne's Nursery, but we certainly have them that grow different crops and have come through as a commercial greenhouse but are not necessarily open to the public. We would need a way to regulate, so if you just delete that section we would not know, if a greenhouse came in, which section to approve this under.

COMMISSIONER HUGHES: Right.

COMMISSIONER HAMILTON: So we need something there. But nevertheless, we have a motion and a second on the floor. So I think I'll call for a vote.

COMMISSIONER GARCIA: I still have some discussion on my motion. So one of the things, I don't know if –

COMMISSIONER HAMILTON: Point of order. I'm sorry. I didn't realize you had more discussion. But you made a motion and I've called for a vote. So I think we need to go for the vote.

COMMISSIONER GARCIA: So what was my motion?

COMMISSIONER HAMILTON: I can have the Clerk reread the motion, or the stenographer.

[Commissioner Garcia's motion was as follows: In Section 10.22.3.1, move "Traditional Communities" from subsection 2 (conditional) to subsection 1 (permitted), and in 10.22.3.3, a cannabis producer or cannabis producer microbusiness that cultivates cannabis plants indoors shall be treated the same as a commercial greenhouse.]

COMMISSIONER GARCIA: Yes. Thank you, Madam Chair. That's pretty much it. But one of the things I wanted to add to my motion and I don't know –

COMMISSIONER HAMILTON: We have a motion and a second.

COMMISSIONER GARCIA: Well, then I can remove my motion and I can make another motion if that's the case, because I want to make sure that everybody that lives in a traditional community, if it's allowed as a permitted use gets notified some way, somehow.

COMMISSIONER HAMILTON: Well, that's what a conditional permit is

and that's the way it's in here now. And you moved to change that. So I believe I have to go for a vote, or can a motion that's been seconded be withdrawn? I don't believe it can.

COMMISSIONER GARCIA: Madam Chair, while the Attorney is looking that up, one of the things I would like – conditional approval – I understand how that works. I would like to see – this is kind of a little bit off the motion until the Attorney looks at it, is in regards to, if you can guarantee me that a conditional use says do items A, J, K, F, and Z, that's it for this type of use, and every single body out there, wherever you live, can do that same exact thing and then that's – I would probably look a little more favorably for a conditional use.

COMMISSIONER HAMILTON: I have a motion and a second on the floor. I think I need to make a call for a vote.

MR. SHAFFER: Madam Chair, I don't believe that that specific issue is addressed in our rules of order, so I think that that's at the discretion of the Chair. So if you'd like to proceed in that manner I think that's appropriate and I think that's your decision.

COMMISSIONER HAMILTON: As opposed to having it withdrawn?

MR. SHAFFER: I believe that's correct. You could go either way. Parliamentary matters that aren't specifically addressed in the Board's rules of order are left to the discretion of the Chair. So if you'd like the maker of the motion to withdraw his motion, I think that's within your discretion, or you can call it for a vote.

COMMISSIONER HAMILTON: Okay. Are you withdrawing your motion?

COMMISSIONER GARCIA: Madam Chair, yes. I withdraw my motion, because my first initial motion did not include notification.

COMMISSIONER HAMILTON: Hang on. I really would like to do this in – the motion's been withdrawn. Does the second agree?

COMMISSIONER HANSEN: Yes.

COMMISSIONER GARCIA: So starting fresh.

COMMISSIONER HAMILTON: So if there is no further discussion on this on how it has been revised and presented. I would entertain a motion on whether to accept or reject this revision.

COMMISSIONER HUGHES: I just have one more question. I'm sorry, Madam Chair.

COMMISSIONER HAMILTON: Okay. Go ahead.

COMMISSIONER HUGHES: Which would be – I'm not sure that I like this idea; I'm just putting it out there. But what if we were to just add to, under 10.22.3.4, under number one, after the Agricultural, Ranching and Rural zoning districts, and anywhere that dairies are currently permitted. And that would give a few –

COMMISSIONER HAMILTON: It's not currently permitted – anywhere it's currently permitted?

COMMISSIONER HUGHES: Anywhere dairies are currently permitted.

COMMISSIONER HAMILTON: Those are the places dairies are currently permitted.

COMMISSIONER HUGHES: No, because some of the overlay districts allow dairies in their overlays, and that would automatically allow – Chimayo, I believe

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to just permit these. That's under the assumption that if people are allowing a dairy in their permitted uses they are probably okay with the cannabis thing. But I'm not even sure I like it. I'm just putting it out there.

MS. ELLIS-GREEN: Madam Chair, Commissioners, in the community districts dairy farms are only a permitted use in La Cienega in the Ag-Ranch. So in the other zoning districts they are a conditional use.

COMMISSIONER HAMILTON: I respectfully suggest that in this revision, as stated here, it would be a conditional use, which they could deal with and come back in and make it a permitted use under a streamlined process. So –

COMMISSIONER HUGHES: Yes. Sorry, Madam Chair. Since it only affects one district, the people we heard from La Cienega today were not particularly in favor of this in their area anyway, so I think I will withdraw that idea.

COMMISSIONER HAMILTON: So is –

COMMISSIONER HANSEN: Madam Chair.

COMMISSIONER HAMILTON: Yes, Commissioner Hansen.

COMMISSIONER HANSEN: I'm going to preface this with the words that I am looking forward to working on this ordinance again. I am willing to make a motion to approve it as submitted with the changes that the County Attorney has made and that has been received. That's what I have to say.

COMMISSIONER HUGHES: I will second that motion.

COMMISSIONER HAMILTON: Thank you. So we have a motion and a second to approve the ordinance as modified and distributed. Is there any further discussion? Commissioner Garcia.

COMMISSIONER GARCIA: Madam Chair, I'm not exactly sure how I'm going to vote on this motion but I need to know what a streamlined process is, and until somebody can tell me what a streamlined process is, whether it's working, reworking on this ordinance. If there is the votes for this, that's fine. I would like to know what a streamlined process is. If there's a streamlined process for conditional uses –

COMMISSIONER HAMILTON: No. We're not talking about a streamlined process for conditional uses. We're talking about a streamlined process for modifying community overlay districts. That was what the streamlined process was. It has nothing to do with the ordinance as written. It was just a commitment by staff that if the communities wanted to modify their overlay districts with respect to cannabis regulations they would make sure that they could expedite the process.

COMMISSIONER GARCIA: Madam Chair, I understand the streamlined process for a community district. It took us about seven to ten years, actually, to get community plans in place, so streamlined process for a community overlay district that needs to be redone or revamped, I just find it hard to swallow. But I just wanted to bring that forward. Thank you, Madam Chair.

COMMISSIONER HAMILTON: Okay. Commissioner Hansen.

COMMISSIONER HANSEN: So under discussion, I want to thank Penny and Greg and all of the Commissioners here for struggling with this, and all the people who came to make comments. This is a challenging issue that we are struggling with and we want to make it the best that we can make it and have people be able to grow. I think I have expressed how much I support the small businesses in this community and how

important that is to me. And I think that one of the other things, we might want to reach out to when we look at maybe changing this ordinance in some way is talking to AgriGate and working with AgriGate and trying to get some feedback from our County Planning Division. And I see Robert shaking his head and I see Serafina shaking her head. So I think that we need to include AgriGate in this process as we move forward. At the moment we have rules and regulations and we are going to see what problems arise and we want to work with our traditional communities to make sure that they are getting what they need, both to grow and not to grow and where and when, etc.

So thank you for all your patience. Thank you to the Commission for their patience. This is definitely something that we are all struggling with and thank you. I just wanted to say those few words.

COMMISSIONER HAMILTON: I think they're good comments and the possibility of as we learn empirically, which is the way most learning happens, and you see how this goes forward, we have the opportunity to make further improvements to it that are consistent with what communities need. Commissioner Hughes.

COMMISSIONER HAMILTON: Thank you, Madam Chair. I just wanted to say that I think I agree that this is a struggle. I think we really want to support our small businesses as much as we can. I'm really hoping that we can do an expedited process for those traditional communities that want to allow it there. But I also think that our staff has done a great job writing this whole ordinance including the changes we made today, and I think this is about as good as we're going to get at this point.

COMMISSIONER HANSEN: I would agree with that. Staff has done a great job. I want to thank Penny, Greg, everybody, Madam Chair, and all of the staff, Planning and everybody who has worked on this. Because this was a heavy lift and we've had a couple heavy lifts this year, including the energy efficiency and now the cannabis. So thank you very much.

COMMISSIONER HAMILTON: Thank you. So we have a motion and a second on the table. I'm going to call for a vote.

The motion carried by unanimous roll call vote as follows:

Commissioner Garcia	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Hughes	Aye
Commissioner Roybal	Aye

[Deputy Clerk Evonne Gantz provided the ordinance number.]

COMMISSIONER GARCIA: Staff, thank you for your job on this, due to the short timing, I very hesitantly vote yes. And I will be watching this ordinance to see when everything does come forward with the first submission and more forward.

COMMISSIONER HAMILTON: Thank you. The ordinance passes unanimously, and I join my other Commissioners in thanking everybody who contributed so well to this including all the public who came to speak and provide their input.

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3. CONCLUDING BUSINESS

A. Announcements

COMMISSIONER GARCIA: Madam Chair, I'd like to bring up something.

COMMISSIONER HAMILTON: Yes.

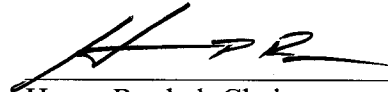
COMMISSIONER GARCIA: Unfortunately – and I'll bring this up at the next Tuesday meeting, my grandmother fell down last night and broke her hip and she had one of those life things that you press and actually I just would like to thank the Fire Department that went out there, the ambulance team that went out there, Public Safety, the Sheriff's deputy as well, at 1:00 in the morning. We had the gate to our property and they actually did what they needed to do and my family – my aunt was very satisfied with the three different Public Safety entities that went out there through our gate and did a good job. So I just want to publicly thank them. Thank you, Madam Chair.

COMMISSIONER HAMILTON: Thank you very much. We wish her the best and appreciate your comments on the Fire Department. We have a good one. Any other Commissioners with announcements?


3. B. Adjournment

Upon motion by Commissioner Hughes and second by Commissioner Hansen, and with no further business to come before this body, Vice Chair Hamilton declared this meeting adjourned at 5:10 p.m.


Approved by:


Henry Roybal, Chair
Board of County Commissioners

ATTEST TO:


KATHARINE E. CLARK
SANTA FE COUNTY CLERK

Respectfully submitted:


Karen Farrell, Wordswork
453 Cerrillos Road
Santa Fe, NM 87501



SFC CLERK RECORDED 09/01/2021

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2021-_____

AN ORDINANCE
AMENDING THE SANTA FE COUNTY SUSTAINABLE LAND DEVELOPMENT
CODE ("SLDC"), ORDINANCE NO. 2016-9, TO ENACT COMPREHENSIVE,
COUNTYWIDE ZONING AND OTHER REGULATIONS FOR CANNABIS,
INCLUDING CANNABIS ESTABLISHMENTS, OTHER CANNABIS BUSINESSES,
AND PERSONAL CULTIVATION AND PRODUCTION OF CANNABIS AND
CANNABIS PRODUCTS; AMENDING AND RESTATING SECTIONS 10.6.2 AND 10.22
OF THE SLDC IN THEIR ENTIRETY; AND AMENDING APPENDIX A, PART 2,
DEFINITIONS, OF THE SLDC TO DELETE AND ADD CANNABIS RELATED
DEFINITIONS

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS
("BOARD") OF SANTA FE COUNTY ("COUNTY"):

1. Section 10.6.2 of the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9, as amended (SLDC), is hereby amended and restated in its entirety to read as follows:

"10.6.2. Permit Required. Home occupations require a permit as specified in Table 10-1. A permit will not be issued for a home occupation where:

10.6.2.1. Code violations are present on the property;

10.6.2.2. adequate access is not available;

10.6.2.3. adequate infrastructure is not in place;

10.6.2.4. the proposed home occupation is a roofing or towing business, construction yard, port-a-potty leasing business, involves retail sales open to the public, vehicle leasing business, crematories, auto paint and body shop, heavy industrial uses, a cannabis establishment, cannabis consumption area, or cannabis courier."

2. Section 10.22 of the SLDC is hereby amended and restated in its entirety to read as follows:

"10.22. RECREATIONAL AND MEDICAL CANNABIS ZONING AND OTHER REGULATIONS.

10.22.1. In addition to the applicable authority set forth elsewhere in the SLDC and State law, the zoning and other regulations in this section are enacted pursuant to the County's authority in Section 12 of the Cannabis Regulation Act, Laws 2021 (1st S.S.), Chapter 4, and NMSA 1978, §§ 24-16-2 (1985) and 24-16-20 (2007).

10.22.2. The Board makes the following findings with regard to cannabis:

10.22.2.1. Cannabis establishments and cannabis consumption areas are uses not specifically enumerated in the Use Tables and Use Matrix in Appendix B of the SLDC.

10.22.2.2. The SLDC, however, previously established comprehensive zoning for certain cannabis-related uses authorized by the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

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

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

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

10.22.2.6. The smoking of cannabis products may create health risks due to exposure to secondhand smoke and vaporized cannabis concentrates.

10.22.2.7. Density limits are necessary to ensure that cannabis retailers and consumption areas are not unduly concentrated and do not crowd out other non-residential uses.

10.22.2.8. The Board has determined that cannabis establishments and cannabis consumption areas should be allowed in those Zoning Districts where similar uses are allowed, such similarity determined by the Board in an exercise of legislative discretion based upon, among other factors, off-site impacts, compatibility, and the need for services.

10.22.3. For purposes of any Use Table in the SLDC and the Use Matrix in Appendix B and subject to the density and setback requirements in Sections 10.22.4 and 10.22.5:

10.22.3.1. Cannabis testing laboratories and cannabis research laboratories shall be treated the same as the following uses: Research and Development Services (scientific, medical, and technology).

10.22.3.2. Cannabis manufacturers shall be treated the same as the following uses: Food, Textiles, and Related Products.

10.22.3.3. A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants indoors shall be treated the same as the following use: Commercial Greenhouse.

10.22.3.4. A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants outdoors shall be treated the same as the following use: Dairy Farms.

10.22.3.5. A cannabis retailer shall be treated the same as the following use: Store or Shop.

10.22.3.6. Cannabis consumption areas are subject to the following:

1. A cannabis consumption area in which consumption is limited to consumption by qualified patients or reciprocal participants may be located inside any cannabis retailer; provided, however, that smoking of cannabis products in such consumption areas is only allowed if the cannabis consumption area occupies a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act, NMSA 1978, Chapter 24, Article 16.

2. Cannabis consumption areas that allow consumption by consumers shall be treated the same as the following uses: Bars, taverns and nightclubs. Cannabis consumption areas that are open to consumers are also subject to the following:

a. the smoking of cannabis products is not allowed outdoors;

b. the smoking of cannabis products is only allowed within a licensed cannabis consumption area that occupies a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act, NMSA 1978, Chapter 24, Article 16; and

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

10.22.3.7. Cannabis couriers fall within the following use: Courier and messenger service facilities.

10.22.3.8. Vertically integrated cannabis establishments and integrated cannabis microbusinesses may only be located in a Zoning District in which each of the authorized activities proposed for the licensed premises is an allowed use, whether as a permitted use or pursuant to an approved Conditional Use Permit. For example:

1. A vertically integrated cannabis establishment that is a cannabis manufacturer, cannabis producer that cultivates cannabis plants outdoors, and a cannabis retailer could not be located at a single licensed premises within an Industrial Light Zoning District, since the outdoor cultivation of cannabis plants is not allowed in the Industrial Light Zoning District.

2. An integrated cannabis microbusiness that is a cannabis manufacturer and a cannabis producer that cultivates cannabis plants outdoors would require conditional use permits for those uses to be located at a single licensed premises within the Rural Fringe Zoning District.

10.22.4. No cannabis establishment, cannabis consumption area, or cannabis courier may be located within 300 feet of a school or daycare center in existence at the time a license was sought for the cannabis establishment, cannabis consumption area, or cannabis courier. For purpose of this section, all measurements for the purpose of determining the location of a cannabis establishment, cannabis consumption area, or cannabis courier in relation to schools or daycare centers shall be the shortest direct line measurement between the actual limits of the real property of the school or daycare center and the actual limits of the real property of the proposed cannabis establishment, cannabis consumption area, or cannabis courier.

10.22.5. Cannabis retailers and cannabis consumption areas may not be located within 200 feet of another cannabis retailer or cannabis consumption area. For purpose of this section, all measurements taken in order to determine the location of a cannabis retailer or cannabis consumption area in relation to another cannabis retailer or cannabis consumption area shall be the shortest direct line measurement between the actual limits of the licensed premises of the existing cannabis retailer or cannabis consumption area and the actual limits of the proposed licensed premises of the proposed cannabis retailer or cannabis consumption area.

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

10.22.6.1. Cannabis products may only be served and consumed in cannabis consumption areas between the hours of 7:00 a.m. and 2:00 a.m. the following day. ~~Monday through Saturday and noon to midnight on Sundays.~~

10.22.6.1. Cannabis retailers may only sell cannabis products for off-site consumption between the hours of 7:00 a.m. and midnight ~~Monday through Saturday and noon to midnight on Sundays.~~

10.22.7. Cannabis producers that cultivate cannabis plants indoors and cannabis manufacturers must use industry standard techniques to minimize odorous matter, toxic or noxious matter, such as activated carbon filtration and regular maintenance of HVAC systems.

10.22.8. Cannabis cultivation and production for personal use in quantities and as permitted by the Cannabis Regulation Act and Lynn and Erin Compassionate Use Act is

allowed anywhere in the County, ~~subject to the following. Cannabis cultivation and production for personal use must be conducted inside an enclosed and locked dwelling unit or an appropriate accessory structure (e.g., a controlled environment agricultural structure).~~

10.22.9. Applicability of Other Laws.

10.22.9.1. All cannabis uses are subject to all other applicable sections of the SLDC and other County ordinances.

10.22.9.2. Any person engaged in commercial cannabis activities and activities under the medical cannabis program other than personal production and use must obtain a County business license."

3. Appendix A, Part 2, Definitions of the SLDC is hereby amended by (1) deleting the existing definitions of "cannabis" and "cannabis-derived product" and (2) adding the following new definitions applicable solely to Section 10.6.2 and Section 10.22 of the SLDC:

"Cannabis:

(1) means all parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include:

(a) the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or

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

Cannabis Consumption Area: an area where cannabis products may be served and consumed.

Cannabis Courier: a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

Cannabis Establishment:

(1) a cannabis testing laboratory;

(2) a cannabis manufacturer;

- (3) a cannabis producer;
- (4) a cannabis retailer;
- (5) a cannabis research laboratory;
- (6) a vertically integrated cannabis establishment;
- (7) a cannabis producer microbusiness; or
- (8) an integrated cannabis microbusiness.”

Cannabis Extract:

(1) means a product obtained by separating resins, tetrahydrocannabinols or other substances from cannabis by extraction methods approved by the division; and

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

Cannabis Flowers: only the flowers of a cannabis plant.

Cannabis Manufacturer: a person that:

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

Cannabis Producer: a person that:

- (1) cultivates cannabis plants;
- (2) has unprocessed cannabis products tested by a cannabis testing laboratory;
- (3) transports unprocessed cannabis products only to other cannabis establishments; or
- (4) sells cannabis products wholesale.

Cannabis Producer Microbusiness: a cannabis producer at a single licensed premises that possesses no more than two hundred total mature cannabis plants at any one time.

Cannabis Product: a product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients.

Cannabis Research Laboratory: a facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

Cannabis Retailer: a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

Cannabis Testing Laboratory: a person that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing.

Commercial Cannabis Activity:

(1) means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and

(2) does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis.

Consumer: a person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale.

Cultivation: any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

Dry Weight Basis: when used in the context of regulation of commercial cannabis activity, means a process by which delta-9-tetrahydrocannabinol concentration is measured relative to the aggregate weight of all parts of the plant genus Cannabis, whether growing or not, including the leaves of the plant, the flowers and buds of the plant, the seeds of the plant, the resin of the plant and the stalks of the plant at the point of harvest by a licensee and with no moisture added to the harvested plant.

E-cigarette: a product containing or delivering nicotine or another substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product, including a device, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah or vape pen or under another product name or descriptor.

Facility: a building, space or grounds licensed for the production, possession, testing, manufacturing or distribution of cannabis, cannabis extracts or cannabis products.

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

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

Licensed Premises: a location that includes:

- (1) all enclosed public and private areas at the location that are used in the business and includes offices, kitchens, restrooms and storerooms;
- (2) all areas outside of a building that are specifically included in the license for the production, manufacturing, wholesale sale or retail sale of cannabis products; and
- (3) with respect to a location that is specifically licensed for the production of cannabis outside of a building, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases or has a right to occupy.

Manufacture: to compound, blend, extract, infuse, package or otherwise prepare a cannabis product.

Medical Cannabis: cannabis products used by a qualified patient or reciprocal participant in accordance with the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

Medical Cannabis Program: the program created pursuant to the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

Qualified Patient: a resident of New Mexico who holds a registry identification card pursuant to the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

Reciprocal Participant: a person who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory or commonwealth of the United States in which the person resides or a person who holds proof of enrollment by a governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program.

Retail Establishment: a location at which cannabis products are sold to qualified patients, primary caregivers and reciprocal participants and directly to consumers.

Smoking:

- (1) inhaling from, exhaling from, burning, carrying or holding:
 - (a) a lighted or heated cigar, cigarette, hookah or pipe; or
 - (b) any other lighted or heated tobacco or plant product intended for inhalation, including cannabis, whether natural or synthetic; or
- (2) any use of an e-cigarette that creates an aerosol or vapor.

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

Unprocessed: unaltered from an original, raw or natural state.

Vertically Integrated Cannabis Establishment: a person that is authorized to act as any of the following:

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

4. The effective date of the amendments to the SLDC adopted by this Ordinance shall be 30 days after this Ordinance is recorded with the County Clerk.

PASSED, APPROVED AND ADOPTED THIS 30th DAY OF JULY, 2021.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Henry P. Roybal, Chairperson

ATTEST:

Katharine E. Clark
County Clerk

APPROVED AS TO FORM:

Gregory S. Shaffer
County Attorney

Draft - 7.22.2021

The New York Times

<https://www.nytimes.com/2018/12/19/us/california-marijuana-stink.html>

'Dead Skunk' Stench From Marijuana Farms Outrages Californians

By Thomas Fuller

Dec. 19, 2018

CARPINTERIA, Calif. — They call it fresh skunk, the odor cloud or sometimes just the stink.

Mike Wondolowski often finds himself in the middle of it. He may be on the chaise longue on his patio, at his computer in the house, or tending to his orange and lemon trees in the garden when the powerful, nauseating stench descends on him.

Mr. Wondolowski lives a half-mile away from greenhouses that were originally built to grow daisies and chrysanthemums but now house thousands of marijuana plants, part of a booming — and pungent — business seeking to cash in on recreational cannabis, which has been legal in California since January.

"If someone is saying, 'Is it really that bad?' I'll go find a bunch of skunks and every evening I'll put them outside your window," Mr. Wondolowski said. "It's just brutal."

When Californians voted to legalize recreational marijuana in 2016, there were debates about driving under the influence and keeping it away from children. But lawmakers did not anticipate the uproar that would be generated by the funk of millions of flowering cannabis plants.

As a result of the stench, residents in Sonoma County, north of San Francisco, are suing to ban cannabis operations from their neighborhoods. Mendocino County, farther north, recently created zones banning cannabis cultivation — the sheriff's deputy there says the stink is the No. 1 complaint.

SFC CLERK RECORDED 09/01/2021

Cannabis buds on plants at New Family Farm in Sebastopol, Calif. Jim Wilson/The New York Times

In Santa Barbara County, cannabis growers confronting the rage of neighbors are spending hundreds of thousands of dollars installing odor-control systems that were designed for garbage dumps.

The smell from commercial cannabis farms, which brings to mind a mixture of rotting lemons and sulfur, is nothing like the wafting cloud that might hover over a Phish show, pot farm detractors say.

“It’s as if a skunk, or multiple skunks in a family, were living under our house,” said Grace Guthrie, whose home sits on the site of a former apple orchard outside the town of Sebastopol. Her neighbors grow pot commercially. “It doesn’t dissipate,” Ms. Guthrie said. “It’s beyond anything you would imagine.”

When cannabis odors are at their peak, she and her husband, Robert, sometimes wear respirators, the kind one might put on to handle dangerous chemicals. During Labor Day weekend, relatives came to stay at the house, but cut short their visit because they couldn’t stand the smell.

“I can’t be outside more than 30 minutes,” Mr. Guthrie said of peak odor times, when the cannabis buds are flowering and the wind sweeps the smell onto his property. “The windows are constantly closed. We are trapped inside. There’s no escape.”

Britt Christiansen and her neighbors in Sonoma County banded together and sued the operators of a local pot business over the smell. Jim Wilson/The New York Times

After nearly one year of recreational sales in California, much of the cannabis industry remains underground. Stung by taxes and voluminous paperwork, only around 5 percent of marijuana farmers in the state have licenses, according to Hezekiah Allen, the executive director of the California Growers Association, a marijuana advocacy group. Sales of legal cannabis are expected to exceed \$3 billion this year, only slightly higher than medical marijuana sales from last year. Tax revenues have been lower than expected, and only about one-fifth of California cities allow sales of recreational cannabis. The dream of a fully regulated market seems years off.

The ballot measure legalizing recreational marijuana passed in 2016 with a comfortable majority of 57 percent. Many of those complaining about cannabis odors say they were among those who supported it. They just don't want it stinking up their property, they say.

"Just because you like bacon doesn't mean you want to live next to a pig farm," said Lynda Hopkins, a member of the Sonoma County Board of Supervisors, whose office has been inundated with complaints about the smell.

The odor question is also roiling local politics.

Marijuana businesses in Carpinteria recently donated \$28,000 worth of lab equipment to Carpinteria High School, according to Philip Greene, the chief of operations for Ever-Bloom, a cannabis producer that helped coordinate the donation. The high school is flanked by cannabis greenhouses that have sent odors wafting in. In the past two years, students have complained of headaches, parents have grown angry and the high school has had to warn visiting sports teams that they might encounter the odor.

The donation has not yet been made public, but is seen by some as an effort to offset the damage done by the stench. In an interview, Maureen Foley Claffey, a member of the Carpinteria School Board, said it would send a "confusing and problematic" message to students to accept it. Ms. Claffey lashed out at the superintendent, Diana Rigby, for soliciting donations from the cannabis industry at a time when members of the community are battling the stink.

A Nasal Ranger, a device that measures the odors in the air. It is in use in Colorado, the first state to legalize recreational marijuana.
Dave Kolpack/Associated Press

“Are we that desperate for cash that we are willing to take it from anyone without regard to the source and the message?” she said. “I guess money talks.”

Ms. Rigby, the superintendent, did not return phone calls or email requesting comment.

In Sonoma County, hearings on cannabis ordinances at the board of supervisors overflow with representatives from the cannabis industry, who wear green, and angry residents, who wear red.

Of the more than 730 complaints Sonoma County has received about cannabis this year, around 65 percent are related to odor, according to Tim Ricard, the county’s cannabis program manager.

“There’s been a tremendous amount of tension in the community,” said Ms. Hopkins, the Sonoma supervisor. “If I had to name an ice-cream flavor for cannabis implementation it would definitely be rocky road.”

Cannabis executives recognize that pot grows can be odorous, but say their industry is no different from others that produce smells.

Dennis Hunter, right, a co-founder of CannaCraft, a marijuana business in Santa Rosa in Sonoma County, watching Matt Kulczycki filling a mold with cannabis-infused dark chocolate. Jim Wilson/The New York Times

“You have a smell issue that sometimes can’t be completely mitigated,” said Dennis Hunter, a co-founder of CannaCraft, a large marijuana business based in Santa Rosa in Sonoma County. “But we have dairy farms here in the area or crush season for the vineyards — there’s agricultural crops, and a lot of them have smells.”

Britt Christiansen, a registered nurse who lives among the dairy farms of Sonoma County,

acknowledges that her neighborhood smells of manure, known locally as the Sonoma aroma.

But she says she made the choice to live next to a dairy farm and prefers that smell to the odor that drifted over from the marijuana farm next door to her house.

"We opened the door and the smell kicked us in the face," Ms. Christiansen said. Her neighbors banded together in October and sued the operators of the pot business; the case is ongoing.

One problem for local governments trying to legislate cannabis odors is that there is no objective standard for smells. A company in Minnesota, St. Croix Sensory, has developed a device called the Nasal Ranger, which looks like a cross between a hair dryer and a radar gun. Users place the instrument on their nose and turn a filter dial to rate the potency on a numerical scale. Charles McGinley, the inventor of the device, says a Level 7 is the equivalent of "sniffing someone's armpit without the deodorant — or maybe someone's feet — a nuisance certainly."

Lawmakers did not anticipate the uproar that would be generated by the funk of millions of flowering cannabis plants. Jim Wilson/The New York Times

A Level 4, he said, is the equivalent of a neighbor's freshly cut grass. "It could still be a nuisance, but it wouldn't drive you away from your front porch," Mr. McGinley said.

Standing next to a flowering cannabis bud, the smell would easily be a Level 7, Mr. McGinley said.

The Nasal Ranger is in use in Colorado, the first state to legalize recreational marijuana, but California counties and cities are still struggling with the notion that smells are subjective.

Ever-Bloom in Carpinteria is one of a number of marijuana businesses that have invested hundreds of thousands of dollars to mitigate the stink. Two previous systems failed, but the current one, modeled on devices used to mask the smell of garbage dumps, sprays a curtain of vapor around the perimeter of the greenhouses. The vapor, which is made up of essential oils, gives off a menthol smell resembling Bengay.

Dennis Bozanich, a Santa Barbara County official charged with cannabis implementation who has become known as the cannabis czar, says the essential oil odor control has been largely successful. But not every grower can afford to install it.

On weekends, Mr. Bozanich becomes a cannabis odor sleuth, riding his bicycle through Carpinteria sniffing the air for pot plants. He recently drove through the area with a reporter, rolling down the windows on a stretch of road with cannabis greenhouses. He slowed the car and puzzled over where a cannabis odor was coming from.

"I've got one stinky location right here and I can't quite figure it out," he said.

His description of the stink?

"Dead skunk."

CANNABIS ENVIRONMENTAL BEST MANAGEMENT PRACTICES GUIDE

AIR QUALITY



SEC CLERK REC'D



DENVER
PUBLIC HEALTH &
ENVIRONMENT

OCTOBER 2019

Cannabis plants naturally emit terpenes, which are volatile organic compounds (VOCs), as they grow. Marijuana Infused Product (MIP) facilities also emit VOCs from solvent evaporation during extraction processes. VOCs react with oxides of nitrogen in the presence of sunlight to create ground-level ozone, a pollutant that is dangerous to human health and the environment. Controlling emissions of VOCs from cultivation and MIP facilities helps improve air quality, which is especially important in urban areas and from May to September, when ground-level ozone levels often exceed health standards.

This guide provides recommended best management practices to improve air quality impacts and reduce VOC emissions from cannabis industry operations.

CARBON FILTRATION

Installing control technologies can reduce the amount of VOC emissions released from cultivation and MIP processes while simultaneously controlling odors. Carbon filtration is currently the best control technology for reducing VOC emissions from cannabis cultivation and MIP facilities. Best management practices for carbon filtration include:

- Design and invest in a carbon filtration system appropriate to your facility and don't exceed the maximum rated cubic feet-per-minute rating for air circulation through the filter.
- Choose a filter with a high VOC removal efficiency.
- Inspect and conduct regular maintenance of HVAC systems and carbon filters.
- Make sure that all operations are conducted within sealed infrastructure, and check regularly to ensure there are no leaks.
- Have a documented system in place to respond to odor complaints.
- Develop training for staff members to ensure best practices are being implemented as a part of the routine facility operating procedure.

In Denver, an odor ordinance requires that cultivation facilities control the odor impacts of their growing operations. Denver Revised Municipal Code, Chapter 4 - Air Pollution Control, Section 4-10.

SOLVENT EXTRACTION

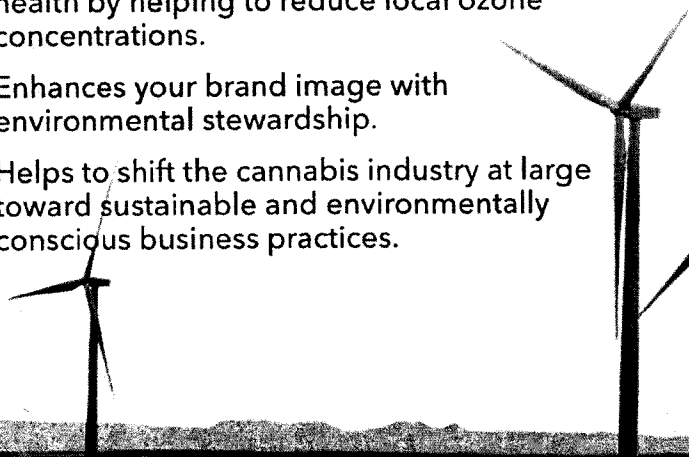
Only certain solvents are permitted for use in Colorado MIP facilities: butane, propane, CO₂, ethanol, isopropanol, acetone, heptane and pentane. All but CO₂ release VOCs when they evaporate. The disposal of solvents by evaporation or spillage is prohibited. Best management practices for solvent extraction include:

- Regularly inspect all solvent storage devices and extraction system to prevent leaks.
- Be careful to prevent leaks during the transfer of solvents between containers and systems at all stages of the production processes.
- Ensure that solvent is always kept in a closed-loop extraction system or sealed container.
- Maintain an inventory of all solvents and their use over time.

Air quality regulations may apply to MIP facilities, depending on the annual amount of solvent lost to evaporation: www.colorado.gov/pacific/cdphe/greencannabis/air-quality

BENEFITS OF VOC/ODOR CONTROL

- Reduces community odor complaints and improves neighborhood relations.
- Improves public and environmental health by helping to reduce local ozone concentrations.
- Enhances your brand image with environmental stewardship.
- Helps to shift the cannabis industry at large toward sustainable and environmentally conscious business practices.



AIR QUALITY

INTRODUCTION

The cannabis industry directly impacts air quality in two predominant operations:

- 1. Plant growth cultivation
- 2. Marijuana Infused Product (MIP) facilities

At cultivation facilities, the natural growth of cannabis plants and other processes emit terpenes, which are Volatile Organic Compounds (VOCs) known for their strong odors. At MIP facilities, the evaporation of solvents and other processes in the production cycle results in Volatile Organic Compound (VOC) emissions. VOCs alone do not typically pose a direct threat to human health or the environment.

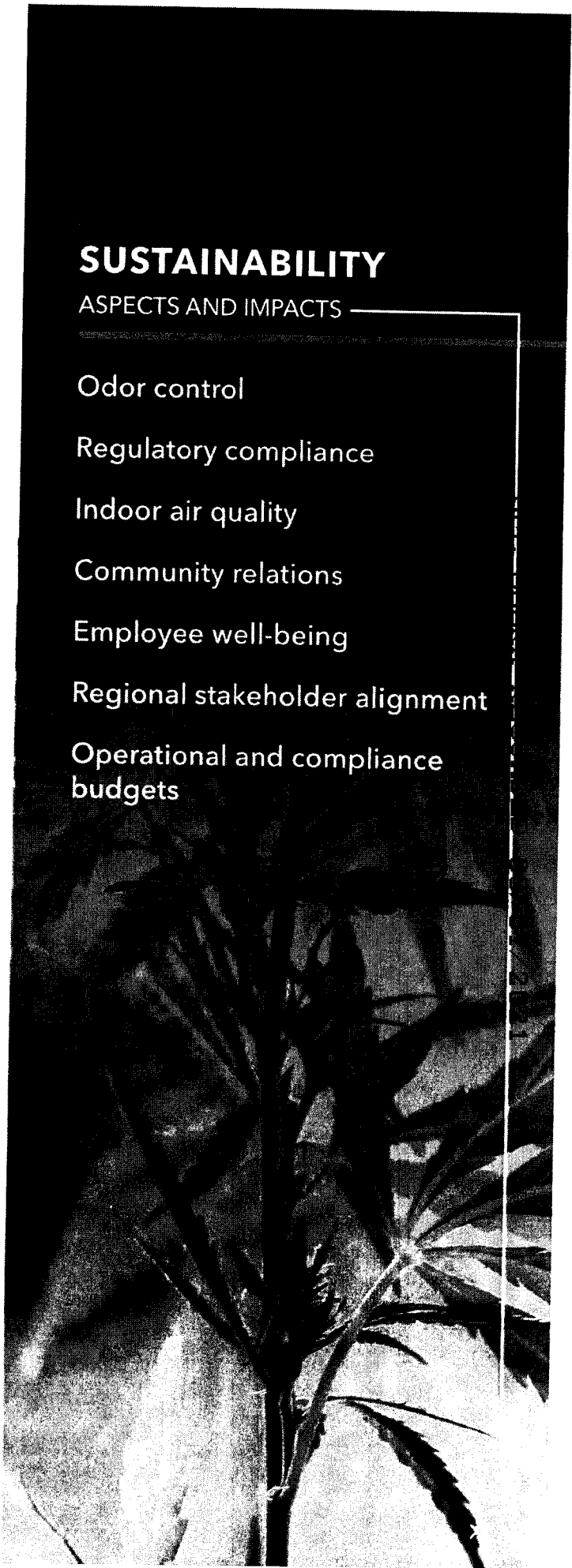
However, they do contribute to ground-level ozone by chemically reacting with other types of pollution, specifically, nitrogen oxides (NOx) in the presence of sunlight. Ozone is an air pollutant that is harmful to human health and negatively impacts the environment; therefore, it is important that the cannabis industry mitigate VOC emissions in their processes. This chapter provides recommended best management practices to improve air quality impacts and reduce VOC emissions from cannabis industry operations.

In Colorado's Front Range, cultivation and MIP facilities are generally in dense urban areas near heavily trafficked highways and other industrial sources of NOx pollution. Because VOCs require the presence of NOx and sunlight to form harmful ozone, VOCs from these facilities have a greater impact on ozone formation than facilities in rural areas. This makes mitigating VOC emissions from the cannabis industry especially important in these regions. Fortunately, most odor control practices at cultivation and MIP facilities also substantially reduce VOC emissions. The correct operation and maintenance of odor control systems at cultivation and MIP facilities is a best management practice for reducing air quality impacts from the cannabis industry.

SUSTAINABILITY

ASPECTS AND IMPACTS

- Odor control
- Regulatory compliance
- Indoor air quality
- Community relations
- Employee well-being
- Regional stakeholder alignment
- Operational and compliance budgets



CULTIVATION FACILITIES

As cannabis plants grow, they release a distinctive range of odors which are made up of different types of VOCs called terpenes.

Activities during the cultivation or production cycle that release significant odors also release elevated VOCs during that time. Installing control technologies can reduce the amount of VOC emissions released from the cultivation process and control odors in compliance with the Denver city and county odor ordinance. Highly reactive, ozone-forming terpenes commonly emitted from cannabis cultivation include: pinene, limonene, myrcene, and terpinolene.

CARBON FILTRATION - BEST OPTION FOR CONTROLLING ODORS AND VOCs

Carbon filtration is currently the best control technology for reducing VOC emissions from cannabis cultivation facilities. Carbon filters are simple to install, inexpensive, effective, and reliable when properly maintained and replaced. These filters work by using an absorption process where porous carbon surfaces chemically attract and trap VOCs along with other gas phase contaminants. As the filter ages, less carbon surface area is available to trap VOCs; at this point the filter will need to be replaced. Depending on the filter load, most carbon filters will last 6-12 months in a commercial cultivation environment and should be replaced according to the manufacturer's recommendations.



Carbon filters can operate as stand-alone units that clean and recirculate the air, or can be integrated into the HVAC system. Typically, carbon filters are at their peak performance when positioned at the highest point in your grow space where heat accumulates. High humidity levels hinder filter performance, so this control technology is better suited for facilities with environmental controls. An effective filtration system must be properly sized according to the space needed for volume and

air-flow requirements. Maintaining an optimal environment can require multiple filters. Carbon filters can be used in combination with other odor control technologies.

Benefits:

- Improve indoor air quality by capturing airborne gas phase contaminants and odors.
- Control the odor impacts of the facility: A properly installed and maintained carbon filtration system is highly effective at controlling odors. This satisfies the requirements of the odor ordinance in Denver and improves community relations as well as business reputation.
- Control VOC emissions: a carbon filtration system will control odors and can remove VOC emissions. This improves public health and the environmental impacts of the facility.

Recommended best practices:

- Design and invest in a carbon filtration system that meets the specific needs of your facility. It is recommended that you work with an HVAC consultant with cannabis industry experience.
- Get information from the manufacturer about the effectiveness of the filter at removing VOCs and choose a filter with a high efficiency rate.
- Do not exceed the maximum rated cubic feet-per-minute rating for air circulation through the filter. If you exceed this max flow rate, the passing air will not have enough "contact time" with the carbon, and the filter will not be effective at removing VOCs.
- Regularly inspect your filter and replace the filter if it is releasing a smell near the filter effluent, or has reached its lifespan according to the manufacturer's specifications.
- Time your filter-replacement schedule so that filters are replaced in early May, the beginning of the ozone season. This ensures that the filter is at peak performance for VOC removal during the high ozone season, resulting in the greatest public health benefits.
- Using a pre-filter can help preserve the life span of your carbon filter, because it can capture particles before they take up surface area on the filter. Pre-filters should be replaced about every 6-8 months for proper air flow.

BIOFILTERS AND CHEMICAL ODOR TECHNOLOGY

Biofilters are an emerging odor technology that could prove to be more cost effective and less resource intensive than carbon filtration once it is refined in the future.

These filters use an organic medium, such as wood chips, that are inoculated with bacteria and consume odorous molecules. Research is currently being conducted on biofilters that contain bacteria that will consume terpenes and will not harm the cannabis plants. Biofiltration is successful at treating biodegradable VOCs, but it requires a large footprint and careful operation control.

Odor absorbing neutralizers: use oils and liquids from plant compounds and mist them into the exhaust air at cultivation facilities to neutralize odorous VOCs. Contact your odor control supplier about the effectiveness of VOC reduction, as it will vary (20%-90%) by product and contact time.

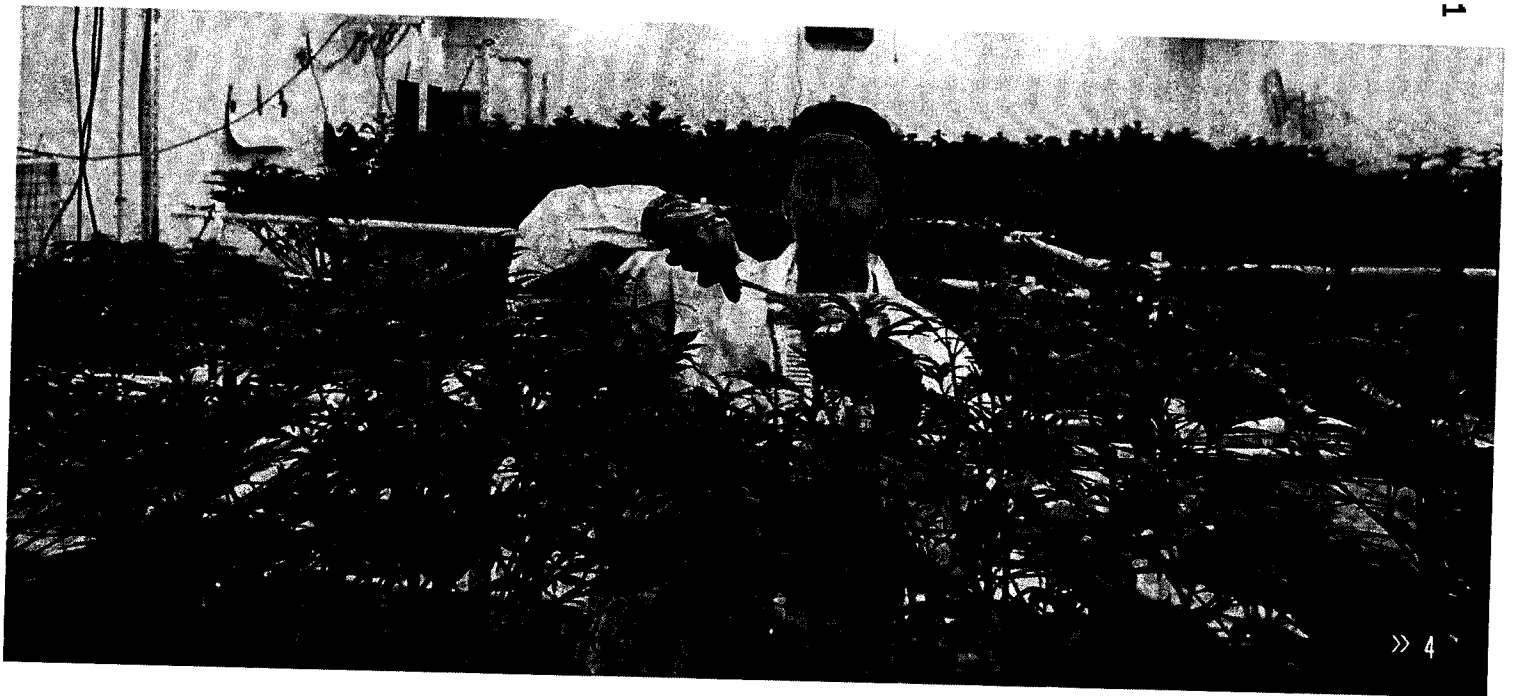
Masking and counteractive agents: use chemical odor control technologies that are misted at the cultivation facility's exhaust. The use of these agents is subject to Colorado's air quality regulations. Higher VOCs are associated with this technology, which lead to more severe impacts of air quality and are not recommended in urban areas.

Ozone generators: are mostly used for sanitization purposes and have also been used in industrial settings to control strong odors. These generators are harmful to humans and can damage or destroy crops because they are a direct emission source of ozone pollution; therefore, ozone generators are not recommended as a best practice for odor control.

Recommended best practices:

- Regularly inspect and perform maintenance checks on your HVAC system and ducting to ensure it is operating optimally and that the airflow is properly controlled. Keep windows and doors closed in cultivation areas, and inspect the infrastructure for potential leaks.
- For greenhouses, "sealing" the grow space and circulating inside air for one week's time is a common practice that allows the VOC concentration to build up within the greenhouse. When it is time to "purge" the greenhouse by bringing in fresh air, do this at a time when the potential for ozone formation is lowest (e.g., evenings, windy days, and cloudy days). Avoid purging air during times that have the highest risk of ozone formation (e.g., mornings, sunny and hot days, and stagnant weather).

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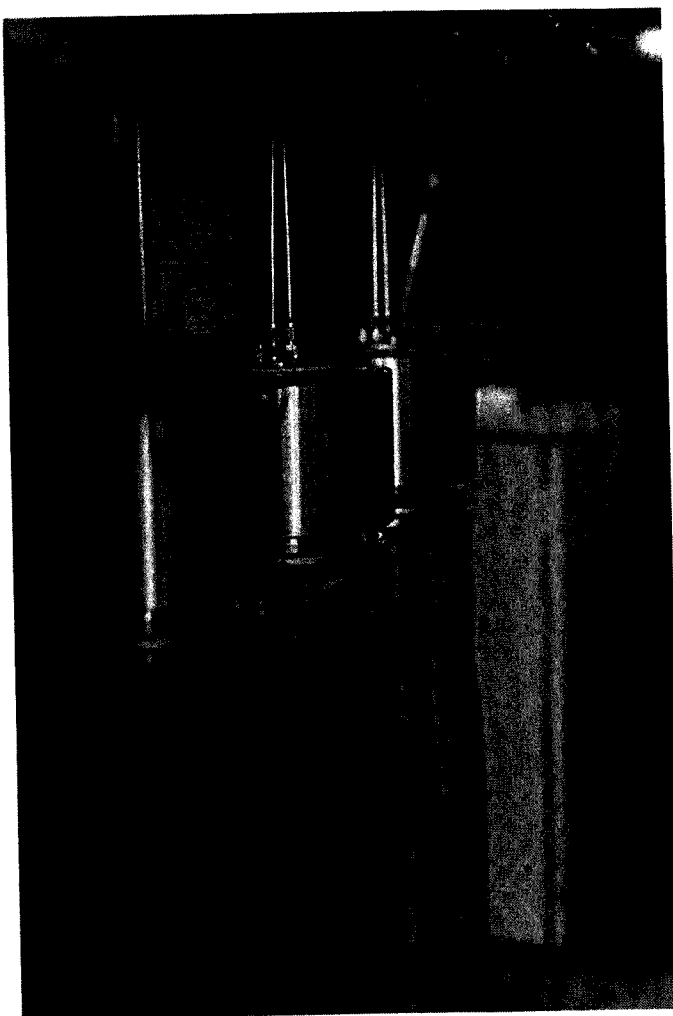


- Make sure that the temperature and relative humidity are under control within tolerance levels of the cultivation room. High temperature and humidity will perpetuate any odor issues the facility is producing; this is especially true during the flowering phase of cultivation. Proper air circulation is critical for maintaining temperature and humidity control.
- Have a documented system in place for recording and responding to odor complaints in compliance with Denver's Odor Ordinance.
- Purchase a "scentometer" or Nasal Ranger to be able to quantify odors and record "defensible data" from self-testing. This can be used to determine if your operation is meeting local odor regulations.
- The harvesting phase results in a higher emission of VOCs than other cultivation phases. Time the harvesting phase to minimize its ozone impact, with respect to time of day, time of year and periods with high forecasted ozone. Minimize emissions during the morning and early afternoon, and during the summer.
- Develop training and allocate responsibilities for staff members to ensure best practices are being implemented consistently and continually as a part of the routine facility operating procedure.
- Communicate and coordinate with other cannabis cultivators to learn what solutions are the most practical and effective.

MIP FACILITIES AND EXTRACTION PROCESSES

MIP facilities manufacture marijuana concentrates and infused products such as edibles, ointments, and tinctures.

These methods can be divided into two main categories: solvent and solventless extractions. Solvent extraction methods apply a chemical to remove terpenes and cannabinoids from the plant, which results in a variety of different products. Solventless extraction methods involve the use of physical methods to create concentrates.



The processing of plants where solvents are used to extract cannabis concentrates is considered a manufacturing process that is subject to state air quality regulations. The applicability of the air quality regulations will depend on the annual amount of VOC emissions quantified in tons emitted per year. It is the responsibility of the business to calculate an estimate of their VOC emissions from solvent extraction. For specific guidance on air quality requirements for MIP facilities and how to calculate emissions, visit: www.colorado.gov/cdphe/greencannabis.

The Colorado Small Business Assistance Program can also help you calculate your annual air emissions for free by calling 303-692-3175.

Regulatory Applicability

- CCR 212-1 M 605 D4 requires a professional-grade, closed-loop extraction system capable of recovering the solvent, with the exception of ethanol and isopropanol solvent-based systems (CCR 212-1 M 605 E). The disposal of VOCs by evaporation or spillage is prohibited under 5 CCR 1001- 9 Regulation 7 V.A.
- CCR 212-2 R 605 A2 delineates the solvents that are permitted for use. The rule states: "A Retail Marijuana Products Manufacturing Facility may also produce Solvent-Based Retail Marijuana Concentrate using only the following solvents: butane, propane, CO₂, ethanol, isopropanol, acetone, heptane and pentane. The use of any other solvent is expressly prohibited unless and until it is approved by the Division."
- All permitted solvents besides CO₂ are VOC-based and result in direct VOC emissions when evaporated. The law is the same for medical marijuana concentrate production and is provided in CCR 212-1 M 605 A2. This list of solvents was formulated with the health and safety of workers in mind, and using any other solvent is a violation of the law and could also lead to negative air quality impacts. CCR 212-1 M 605 D5 requires that all solvents used are food grade or at least 99% pure.

Recommended best practices:

- Regularly inspect and maintain all storage devices of solvents to prevent leaks.
- Conduct regular maintenance and inspection of the extraction system to ensure that it is functioning properly, without direct leaks of the solvent.
- Take caution to prevent leaks during the transfer of solvents between containers and systems at all stages of the production processes.

SUSTAINABILITY

ASPECTS AND IMPACTS

Effluent discharge

Regulatory compliance

Indoor air quality

Energy consumption

GHG emissions

Water quality

Community relations

Employee well-being

Operational and compliance budgets

Climate



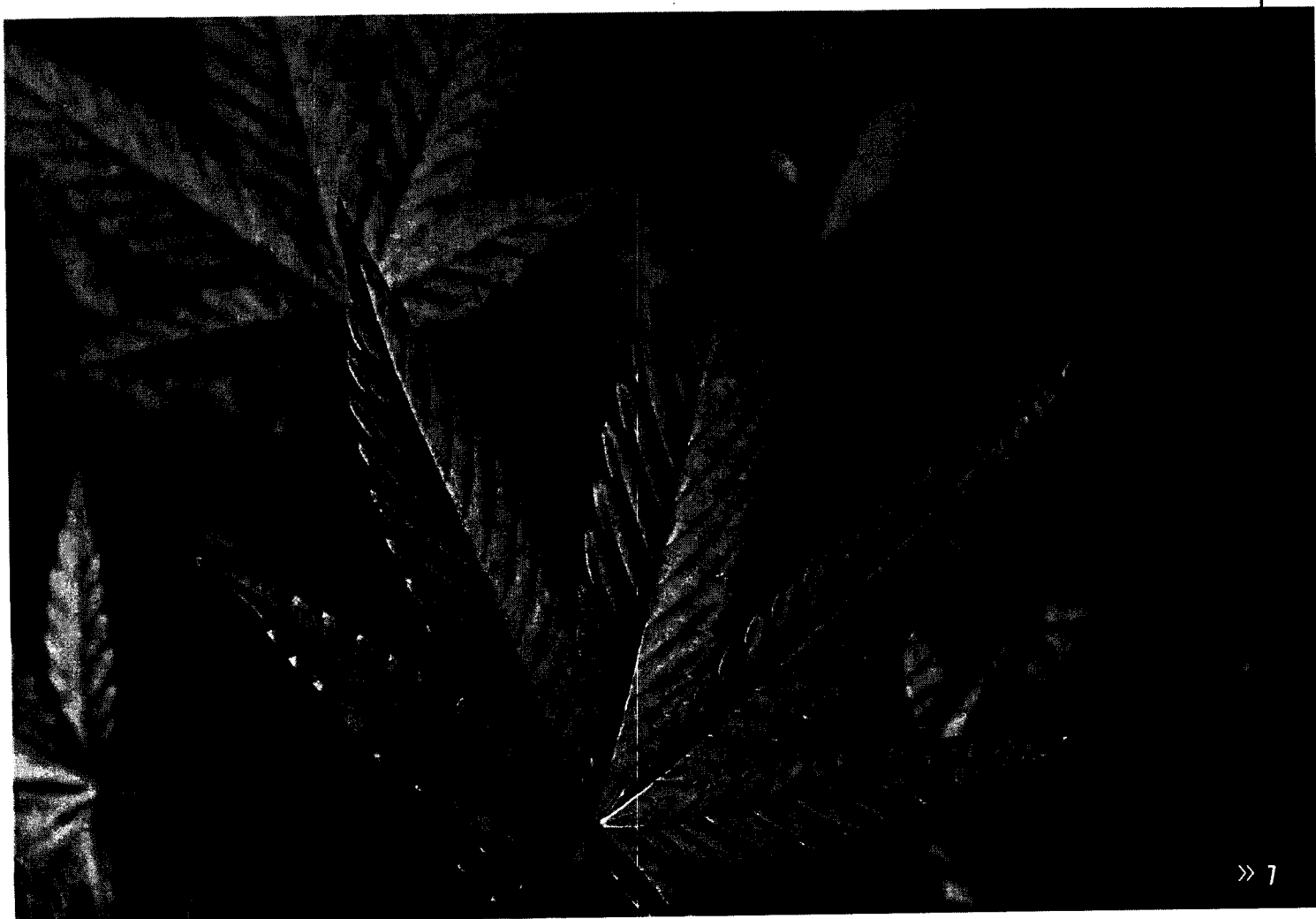
- Never dispose of a solvent through direct evaporation or spillage; ensure that the solvent is always recovered and kept in a closed-loop extraction system or designated container
- Maintain an inventory of all solvent liquids and ensure that the facility operating

procedure allocates responsibility to keep an updated list.

- Develop training and allocate responsibilities for staff members to ensure best practices are being implemented consistently and continually as a part of the routine facility operating procedure

CONCLUSION

Limiting activities that emit VOCs and making sure that odor control systems are optimally operating during high ozone periods can substantially improve the air quality impacts of cannabis facilities. It is recommended that an employee committee is designated to develop and implement a BMP plan specific to the facility needs. Establishing and communicating BMPs through adequate training can help ensure that this becomes an integrated part of the routine operation in cannabis facilities. Colorado's cannabis industry can adopt BMPs that improve their air quality impacts, bolster their reputations as stewards of the environment, and control their odor, as well as air quality emissions.



THE PIPELINE Cannabis Law Advisor

Odor Issues Are Moving to the Forefront as More States Allow Recreational Cannabis

By Michael A. Nesteroff on January 11, 2019

With 10 states and the District of Columbia having legalized recreational cannabis (representing nearly a quarter of the U.S. population, including the most populous state), an emerging issue is how to deal with the odor generated by marijuana production facilities. A **December 19, 2018 article** in *The New York Times* noted a growing number of neighbors of cannabis farms are complaining about “skunky” odors caused by certain volatile organic compounds generated during growing and processing. The *Times* cited Sonoma County in California, which it reported received more than 730 complaints about cannabis last year, nearly two-thirds related to odor. Regulators at the state, regional and local levels are attempting to deal with these issues through a combination of permitting, land use and nuisance rules.

In states such as Washington and Colorado, where recreational cannabis has been legal since voter initiatives passed in 2012, regulators have addressed odor as an air quality issue. For example, in the Puget Sound region, the Puget Sound Clean Air Agency — typically recognized in the industry as “PSCA,” or the organization you may have received an unexpected and nondescript invoice from — does not have a specific regulation for marijuana odors. It does, however, have jurisdiction to impose limitations on marijuana production facilities under the state’s general regulations for air pollution sources (WAC 173-400). PSCA regulates odors through the Notice of Construction process, which operates in conjunction with local permitting processes, such as a conditional use permit, and licensing by the Washington State Liquor and Cannabis Control Board.

The PSCA odor regulations set a “best available control technology” (BACT) standard, which is the maximum degree of reduction for each air pollutant subject to regulation under the

Washington Clean Air Act (RCW 70.94) that the permitting authority determines is achievable, taking into account energy, environmental, economic and other costs. PSCA's rules are based on a nuisance standard — causing or allowing an air contaminant in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

For marijuana producers under PSCA's jurisdiction (King, Snohomish, Pierce and Kitsap Counties), the agency has determined that BACT means no detectible cannabis odor outside the facility property line. The agency in recent permitting actions has implemented this standard by requiring operators to design all exhaust points (e.g., vents, stacks, windows, doors) associated with an enclosure, building or greenhouse for cannabis production or processing to continuously control odors and volatile organic compounds (VOCs) using carbon adsorption technology, which involves placement of carbon canisters before emission points. At a minimum, these carbon units must be replaced every quarter. An operator also must have a person who has not been exposed to the smell periodically monitor the air at the property line to determine compliance with the "no detectible odor at or beyond the property line" standard.

One significant ramification of this standard is that PSCA does not believe outdoor cannabis production facilities can continuously achieve the "no odor outside the property boundary" standard without the proper use of an enclosure that routes emissions to a carbon adsorption system. PSCA also does not allow odor masking, such as spraying a curtain of scented oil vapor around the perimeter of greenhouses. Although the *Times* article mentions this system as a way one California grow operation has tried to mitigate odors, PSCA will not accept that as a control technology.

In Colorado, cannabis cultivation facilities are designated as agricultural activity and exempt from state air quality regulations unless they are a major source of pollution. The City and County of Denver, however, has an odor ordinance that requires cultivation facilities control the odor impacts of their operations. An August 2018 draft of the Denver Department of Public Health & Environment's "Cannabis Environmental Best Management Practices" (BMP) recommends use of carbon filtration to reduce the VOC emissions from a cannabis cultivator. In addition, draft guidance recommends other best management practices, including:

- Regular inspection and maintenance of HVAC systems;
- Sealing the grow space within a greenhouse and circulating air for approximately one week and purging exhausts during low ozone formation periods (evenings, windy days, cloudy days);
- Ensuring temperature and relative humidity are under control and within tolerances so that high temperatures and humidity do not perpetuate odor issues;
- Having a system in place to record and respond to odor complaints;
- Purchasing a “scentometer” or Nasal Ranger to quantify odors and record data from self-testing;
- Timing harvests to minimize ozone impact and minimizing emissions during morning, early afternoon and summer; and
- Train and allocate responsibilities among staff members to ensure consistent and continuous implementation of BMPs.

Colorado facilities manufacturing marijuana-infused product are subject to health and safety regulations and regulations on extraction processes in the Colorado Code of Regulations. Those facilities must estimate their VOC emissions from solvent uses and follow the state’s Air Pollutant Emission Notice and permitting requirements.

With the increasing production of cannabis for recreational purposes, more conflicts with neighbors are likely. This is a situation where an ounce of prevention by implementing a wide-range of BMPs could go a long way toward reducing the risks of litigation and enforcement.

THE PIPELINE Cannabis Law Advisor

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Penny Ellis-Green

From: Andrea La Cruz-Crawford <a.lacruzcrawlford@gmail.com>
Sent: Friday, July 30, 2021 12:18 AM
To: Penny Ellis-Green; Rudy Garcia; Hank Hughes; Olivia R. Romo; Anna C. Hansen; Henry P. Roybal
Cc: Serafina Lombardi
Subject: Comments regarding ORDINANCE NO. 2016-9 for Tomorrow 7/30/21

Warning:

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Dear Penny Ellis Green and County Commissioners,

I reside in the traditional village of La Cienega and have water rights on the Acequia de la Capilla. Unfortunately due to work obligations I cannot attend tomorrow's County Commission meeting.

I would request that all cannabis production in the county is subject to conditional use permitting, which would require other safeguards are in place like limits on the number of plants depending on the zone and type of cannabis production (maybe there need to be three or more categories to address cannabis personal use, small scale and large scale). Permits need to include additional safeguards for existing water users including that evidence is submitted showing that water is available for cannabis production at the proposed site and that water is not being illegally allocated for cannabis production.

Instead of trying to shove a whole new industry into an existing framework "dairy farms" that never contemplated cannabis production, focusing the zoning regulations on not only health and safety concerns but also rural equity and taking steps to help protect existing water users by preventing most large scale production while allowing more small scale production or Micro Licenses and providing certain exclusions to the restrictions on outdoor grows for acequia users so they can continue using water as they have for centuries may be a better approach which does not exclude them from the benefits of cannabis production.

It took me some time to realize why (if I am correct) the proposed ordinance at 10.22.3.4 treats cannabis growers like dairy farms for zoning purposes. I went to section 9.8.7 of the SLDC and under that there were two tables 9-8-14 and 9-8-15, which applies to La Cienega and La Cieneguilla but potentially not to the Traditional Community zoning overlay where I reside. Unnecessarily complicated to figure out for something that seeks a quick and easy solution to the cannabis issue! At any rate, SLDC Table 9-8-15 indicates that in Agricultural/Farming Areas Dairy farms are permitted and in Rural Fringe Areas they are allowed subject to Conditional Use Permits in accordance with Chapter 4. BUT Chapter 4 doesn't lay out anything YET with regard to permitting requirements for cannabis production. I would suggest all cannabis production is required as part of that conditional use permitting process to hold a pre-application neighborhood meeting under Chapter 4 and to receive approval of the administrator prior to permitting. There should be reasonable permit fees (more fees for large scale growers and less for small scale growers) to cover the costs of the additional

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administration that will be needed to handle the permit applications, as well as regulating and enforcing the cannabis zoning. None of these items have been addressed.

The use of the dairy category is a lazy mans amendment to the existing SLDC provisions and gross oversimplification of a complex issue when really more time should be taken and community input should be sought to ensure that the code that is adopted reflects practical and wise community decisions.

Certain other concerns should also be considered such as:

- Micro Licences should be eligible to grow in a much more expansive area of the county.
- There are very few areas that can be zoned as a dairy farm
- Not being able to grow outside excludes traditional methods of planting to be used by traditional farmers to enter the cannabis industry
- This ordinance does not consider equity and inclusion, including how to support existing traditional farmers
- The ordinance leaves the most rural areas of the county vulnerable to a land grab
- This ordinance should probably be tabled until there has been stakeholder input and wiser drafting of the proposed ordinance.

Thank you for your time and consideration

Andrea La Cruz-Crawford
(505) 577-9692

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi there,

Could this be included in the public comment?

Dear Santa Fe County Commissioners,

The legalization of Cannabis in our State brings with it a slew of challenges and opportunities. I hope that final ordinance will be a mechanism for reducing problems and maximizing the benefits for County residents.

My life is dedicated to the land, water and people of New Mexico. In my "day job" I have worked for the New Mexico Acequia Association or the last nine years, I am the former President of the Santa Fe Farmers Market, and currently serve on the Rio Santa Cruz System Acequia Association Board. Today I come to you as a small farmer, who was hoping my family could integrate Cannabis into our production. The revised sustainable land use ordinance proposes only places that could also be zoned as dairies for cannabis grows and excludes my family and many small farmers who aspire to find economic opportunities to support our traditional vegetable production. My plea is that you make the zoning for a Cannabis micro business significantly more expansive than for other commercial grows, including residential areas that are on the fringes of the county, in communities known for agricultural production.

Many of us in Santa Fe County are feeling discouraged, overwhelmed and pushed out by this current wave of high real estate prices and out of state purchases. I urge the county to be more proactive in how we can curb the gentrification of our county as it erodes the culture and character of this place we love so dearly. We need to ensure that Cannabis does not just become a contributing factor to the exodus of young New Mexicans out of state because they cannot afford to rent or own a home. I ask the Commission to deeply consider who does the proposed zoning benefit or protect, and how can we create a scenario that empowers current residents and farmers to succeed and minimizes the over exploitation of land that would be eligible to be zoned as dairy?

I thank you all for your consideration and service,

Serafina Lombardi

8 Los Ranchitos

Chimayo

SFC CLERK RECORDED 09/01/2021

Penny Ellis-Green

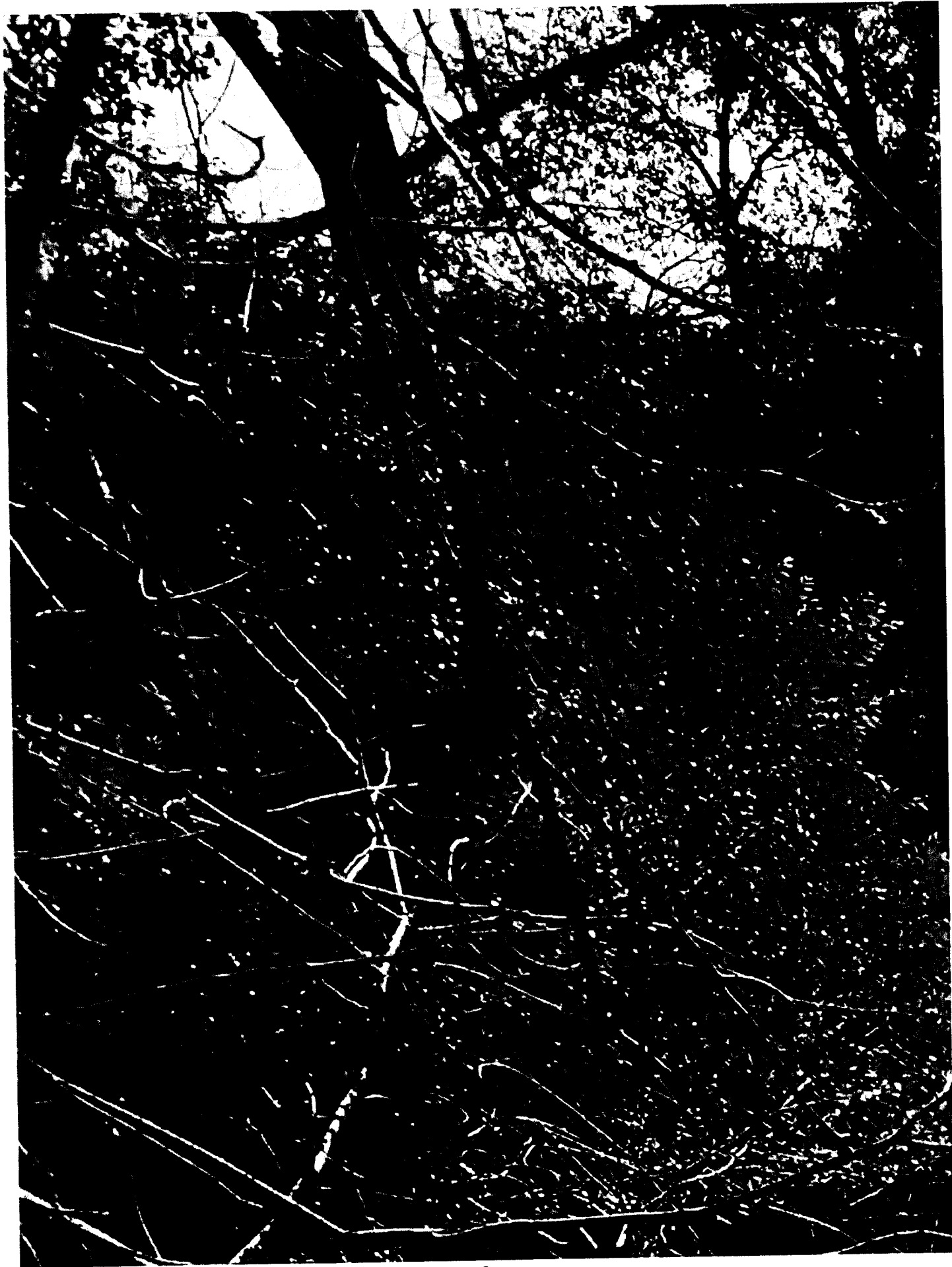
From: ROBERT R ROMERO <pmrromero@msn.com>
Sent: Friday, July 30, 2021 7:27 AM
To: Penny Ellis-Green
Cc: Andrea La Cruz-Crawford; Rudy Garcia; Hank Hughes; Olivia R. Romo; Anna C. Hansen; Henry P. Roybal; Serafina Lombardi; Paula Garcia; Camilla Bustamante
Subject: Re: Comments regarding ORDINANCE NO. 2016-9 for Tomorrow 7/30/21

Warning:

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

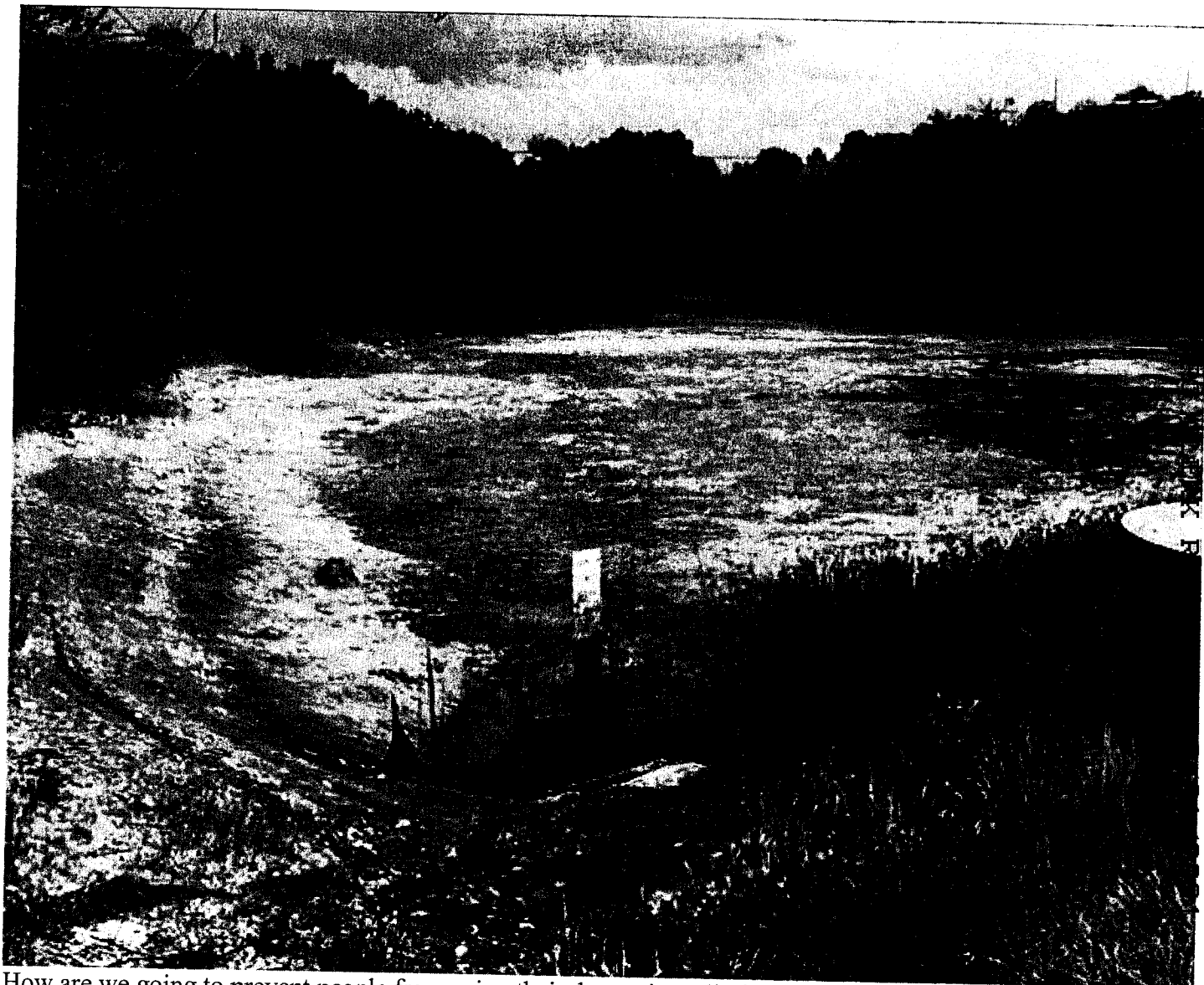
Hello Penny,
Santa Fe county should consider holding a forum with all Acequia interest in Santa Fe County before passing this ordinance to ensure the protection of Acequia water rights.
The Acequias of Santa Fe county are already running dry as a result for the demand for water for ever increasing development without this added demand for water.
Here is the dry La Cienega Creek which is supposed to feed Acequias in La Cienega

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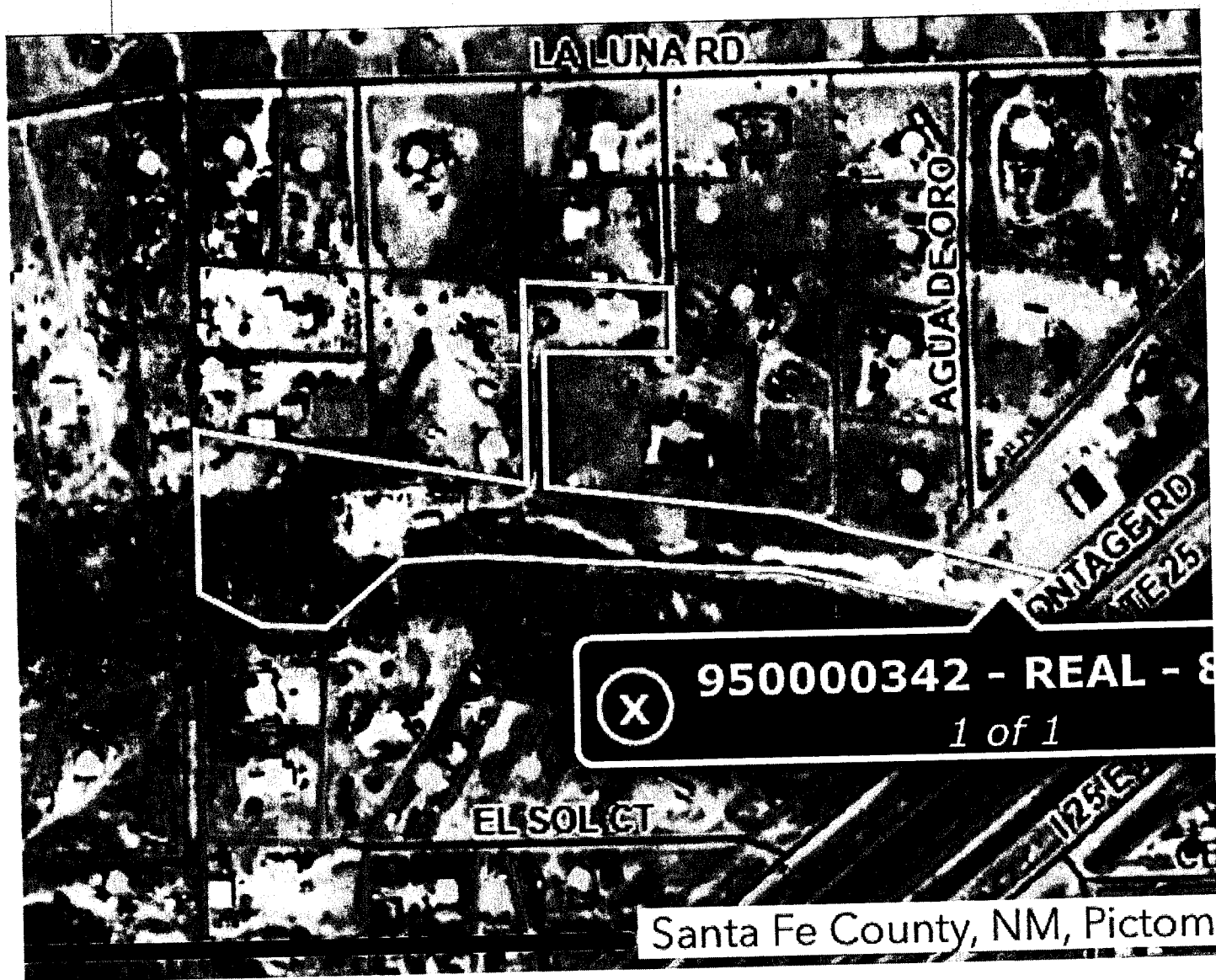
Here is the dry Acequia reservoir this is the third time this season it has run dry.....

July 5 7:47 PM



How are we going to prevent people from using their domestic wells from producing this crop without monitoring them there are already commercial businesses being developed in residential areas that are sucking our Springs Dry.

Here is an example of a concrete business that has developed right on top of a La Cienega Springs. The Acequias of Santa Fe county are in need of protection and need the counties assistance



please add this suggestion to my comments.
 Thank you for your consideration,
 Robert R Romero
 Acequia de La Cienega
 Sent from my iPhone

On Jul 30, 2021, at 6:44 AM, ROBERT R ROMERO <pmrromero@msn.com> wrote:

Good morning Andrea,
 Thank you for your comments I agree with them entirely.
 The county should consider a more thoughtful process!
 Thank you also for being a representative in protection of our Traditional Historic Acequia culture.
 Robert R Romero
 Acequia de La Cienega
 Sent from my iPhone

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2021-_____

AN ORDINANCE
AMENDING THE SANTA FE COUNTY SUSTAINABLE LAND DEVELOPMENT
CODE (“SLDC”), ORDINANCE NO. 2016-9, TO ENACT COMPREHENSIVE,
COUNTYWIDE ZONING AND OTHER REGULATIONS FOR CANNABIS,
INCLUDING CANNABIS ESTABLISHMENTS, OTHER CANNABIS BUSINESSES,
AND PERSONAL CULTIVATION AND PRODUCTION OF CANNABIS AND
CANNABIS PRODUCTS; AMENDING AND RESTATING SECTIONS 10.6.2 AND 10.22
OF THE SLDC IN THEIR ENTIRETY; AND AMENDING APPENDIX A, PART 2,
DEFINITIONS, OF THE SLDC TO DELETE AND ADD CANNABIS RELATED
DEFINITIONS

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS
(“BOARD”) OF SANTA FE COUNTY (“COUNTY”):

1. Section 10.6.2 of the Santa Fe County Sustainable Land Development Code, Ordinance No. 2016-9, as amended (SLDC), is hereby amended and restated in its entirety to read as follows:

“10.6.2. **Permit Required.** Home occupations require a permit as specified in Table 10-1. A permit will not be issued for a home occupation where:

10.6.2.1. Code violations are present on the property;

10.6.2.2. adequate access is not available;

10.6.2.3. adequate infrastructure is not in place;

10.6.2.4. the proposed home occupation is a roofing or towing business, construction yard, port-a-potty leasing business, involves retail sales open to the public, vehicle leasing business, crematories, auto paint and body shop, heavy industrial uses, a cannabis establishment, cannabis consumption area, or cannabis courier.”

2. Section 10.22 of the SLDC is hereby amended and restated in its entirety to read as follows:

“10.22. **RECREATIONAL AND MEDICAL CANNABIS ZONING AND OTHER REGULATIONS.**

10.22.1. In addition to the applicable authority set forth elsewhere in the SLDC and State law, the zoning and other regulations in this section are enacted pursuant to the County’s authority in Section 12 of the Cannabis Regulation Act, Laws 2021 (1st S.S.), Chapter 4, and NMSA 1978, §§ 24-16-2 (1985) and 24-16-20 (2007).

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10.22.2. The Board makes the following findings with regard to cannabis:

10.22.2.1. Cannabis establishments and cannabis consumption areas are uses not specifically enumerated in the Use Tables and Use Matrix in Appendix B of the SLDC.

10.22.2.2. The SLDC, however, previously established comprehensive zoning for certain cannabis-related uses authorized by the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

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

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

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

10.22.2.6. The smoking of cannabis products may create health risks due to exposure to secondhand smoke and vaporized cannabis concentrates.

10.22.2.7. Density limits are necessary to ensure that cannabis retailers and consumption areas are not unduly concentrated and do not crowd out other non-residential uses.

10.22.2.8. The Board has determined that cannabis establishments and cannabis consumption areas should be allowed in those Zoning Districts where similar uses are allowed, such similarity determined by the Board in an exercise of legislative discretion based upon, among other factors, off-site impacts, compatibility, and the need for services.

10.22.3. For purposes of any Use Table in the SLDC and the Use Matrix in Appendix B and subject to the density and setback requirements in Sections 10.22.4 and 10.22.5:

10.22.3.1. Cannabis testing laboratories and cannabis research laboratories shall be treated the same as the following uses: Research and Development Services (scientific, medical, and technology).

10.22.3.2. Cannabis manufacturers shall be treated the same as the following uses: Food, Textiles, and Related Products.

10.22.3.3. A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants indoors shall be treated the same as the following use: Commercial Greenhouse.

10.22.3.4. A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants outdoors shall be:

1. a permitted use in all Agriculture/Ranching and Rural zoning districts;

and

2. a conditional use in all Rural Fringe, Rural Residential, Residential Fringe, and Traditional Community zoning districts treated the same as the following use: Dairy Farms.

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10.22.3.5. A cannabis retailer shall be treated the same as the following use: Store or Shop.

10.22.3.6. Cannabis consumption areas are subject to the following:

- 1. A cannabis consumption area in which consumption is limited to consumption by qualified patients or reciprocal participants may be located inside any cannabis retailer; provided, however, that smoking of cannabis products in such consumption areas is only allowed if the cannabis consumption area occupies a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act, NMSA 1978, Chapter 24, Article 16.
- 2. Cannabis consumption areas that allow consumption by consumers shall be treated the same as the following uses: Bars, taverns and nightclubs. Cannabis consumption areas that are open to consumers are also subject to the following:
 - a. the smoking of cannabis products is not allowed outdoors;
 - b. the smoking of cannabis products is only allowed within a licensed cannabis consumption area that occupies a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act, NMSA 1978, Chapter 24, Article 16; and
 - c. access to cannabis consumption areas open to consumers is restricted to persons twenty-one years of age and older.

10.22.3.7. Cannabis couriers fall within the following use: Courier and messenger service facilities.

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10.22.3.8. Vertically integrated cannabis establishments and integrated cannabis microbusinesses may only be located in a Zoning District in which each of the authorized activities proposed for the licensed premises is an allowed use, whether as a permitted use or pursuant to an approved Conditional Use Permit. For example:

1. A vertically integrated cannabis establishment that is a cannabis manufacturer, cannabis producer that cultivates cannabis plants outdoors, and a cannabis retailer could not be located at a single licensed premises within an Industrial Light Zoning District, since the outdoor cultivation of cannabis plants is not allowed in the Industrial Light Zoning District.
2. An integrated cannabis microbusiness that is a cannabis manufacturer and a cannabis producer that cultivates cannabis plants outdoors would require conditional use permits for those uses to be located at a single licensed premises within the Rural Fringe Zoning District.

10.22.4. No cannabis establishment, cannabis consumption area, or cannabis courier may be located within 300 feet of a school or daycare center in existence at the time a license was sought for the cannabis establishment, cannabis consumption area, or cannabis courier. For purpose of this section, all measurements for the purpose of determining the location of a cannabis establishment, cannabis consumption area, or cannabis courier in relation to schools or daycare centers shall be the shortest direct line measurement between the actual limits of the real property of the school or daycare center and the actual limits of the real property of the proposed cannabis establishment, cannabis consumption area, or cannabis courier.

10.22.5. Cannabis retailers and cannabis consumption areas may not be located within 200 feet of another cannabis retailer or cannabis consumption area. For purpose of this section, all measurements taken in order to determine the location of a cannabis retailer or cannabis consumption area in relation to another cannabis retailer or cannabis consumption area shall be the shortest direct line measurement between the actual limits of the licensed premises of the existing cannabis retailer or cannabis consumption area and the actual limits of the proposed licensed premises of the proposed cannabis retailer or cannabis consumption area.

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

10.22.6.1. Cannabis products may only be served and consumed in cannabis consumption areas between the hours of 7:00 a.m. and 2:00 a.m. the following day.

10.22.6.1. Cannabis retailers may only sell cannabis products for off-site consumption between the hours of 7:00 a.m. and midnight.

10.22.7. Cannabis producers that cultivate cannabis plants indoors and cannabis manufacturers must use industry standard techniques to minimize odorous matter, toxic

or noxious matter, such as activated carbon filtration and regular maintenance of HVAC systems.

10.22.8. Cannabis cultivation and production for personal use in quantities and as permitted by the Cannabis Regulation Act and Lynn and Erin Compassionate Use Act is allowed anywhere in the County.

10.22.9. Applicability of Other Laws.

10.22.9.1. All cannabis uses are subject to all other applicable sections of the SLDC and other County ordinances.

10.22.9.2. Any person engaged in commercial cannabis activities and activities under the medical cannabis program other than personal production and use must obtain a County business license.

10.22.10. Nothing in this Section shall preclude different cannabis regulations from being adopted for Community District Overlays in ordinances adopted after the effective date of Ordinance No. 2021-03.

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3. Appendix A, Part 2, Definitions of the SLDC is hereby amended by (1) deleting the existing definitions of "cannabis" and "cannabis-derived product" and (2) adding the following new definitions applicable solely to Section 10.6.2 and Section 10.22 of the SLDC:

"Cannabis:

(1) means all parts of the plant genus Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include:

(a) the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination; or

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

Cannabis Consumption Area: an area where cannabis products may be served and consumed.

Cannabis Courier: a person that transports cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

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Cannabis Establishment:

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

Cannabis Extract:

(1) means a product obtained by separating resins, tetrahydrocannabinols or other substances from cannabis by extraction methods approved by the division; and

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

Cannabis Flowers: only the flowers of a cannabis plant.

Cannabis Manufacturer: a person that:

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

Cannabis Producer: a person that:

- (1) cultivates cannabis plants;
- (2) has unprocessed cannabis products tested by a cannabis testing laboratory;

(3) transports unprocessed cannabis products only to other cannabis establishments; or

(4) sells cannabis products wholesale.

Cannabis Producer Microbusiness: a cannabis producer at a single licensed premises that possesses no more than two hundred total mature cannabis plants at any one time.

Cannabis Product: a product that is or that contains cannabis or cannabis extract, including edible or topical products that may also contain other ingredients.

Cannabis Research Laboratory: a facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

Cannabis Retailer: a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

Cannabis Testing Laboratory: a person that samples, collects and tests cannabis products and transports cannabis products for the purpose of testing.

Commercial Cannabis Activity:

(1) means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and

(2) does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis.

Consumer: a person twenty-one years of age or older who purchases, acquires, owns, possesses or uses a cannabis product for a purpose other than resale.

Cultivation: any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis.

Dry Weight Basis: when used in the context of regulation of commercial cannabis activity, means a process by which delta-9-tetrahydrocannabinol concentration is measured relative to the aggregate weight of all parts of the plant genus Cannabis, whether growing or not, including the leaves of the plant, the flowers and buds of the plant, the seeds of the plant, the resin of the plant and the stalks of the plant at the point of harvest by a licensee and with no moisture added to the harvested plant.

E-cigarette: a product containing or delivering nicotine or another substance intended for human consumption that can be used by a person in any manner for

the purpose of inhaling vapor or aerosol from the product, including a device, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah or vape pen or under another product name or descriptor.

Facility: a building, space or grounds licensed for the production, possession, testing, manufacturing or distribution of cannabis, cannabis extracts or cannabis products.

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

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

Licensed Premises: a location that includes:

- (1) all enclosed public and private areas at the location that are used in the business and includes offices, kitchens, restrooms and storerooms;
- (2) all areas outside of a building that are specifically included in the license for the production, manufacturing, wholesale sale or retail sale of cannabis products; and
- (3) with respect to a location that is specifically licensed for the production of cannabis outside of a building, the entire unit of land that is created by subsection or partition of land that the licensee owns, leases or has a right to occupy.

Manufacture: to compound, blend, extract, infuse, package or otherwise prepare a cannabis product.

Medical Cannabis: cannabis products used by a qualified patient or reciprocal participant in accordance with the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

Medical Cannabis Program: the program created pursuant to the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

Qualified Patient: a resident of New Mexico who holds a registry identification card pursuant to the Lynn and Erin Compassionate Use Act, NMSA 1978, Chapter 26, Article 2B.

Reciprocal Participant: a person who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory or commonwealth of the United States in which the person resides or a person who holds proof of enrollment by a governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program.

Retail Establishment: a location at which cannabis products are sold to qualified patients, primary caregivers and reciprocal participants and directly to consumers.

Smoking:

- (1) inhaling from, exhaling from, burning, carrying or holding:
 - (a) a lighted or heated cigar, cigarette, hookah or pipe; or
 - (b) any other lighted or heated tobacco or plant product intended for inhalation, including cannabis, whether natural or synthetic; or
- (2) any use of an e-cigarette that creates an aerosol or vapor.

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

Unprocessed: unaltered from an original, raw or natural state.

Vertically Integrated Cannabis Establishment: a person that is authorized to act as any of the following:

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

4. The effective date of the amendments to the SLDC adopted by this Ordinance shall be 30 days after this Ordinance is recorded with the County Clerk.

PASSED, APPROVED AND ADOPTED THIS 30th DAY OF JULY, 2021.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Henry P. Roybal, Chairperson

ATTEST:

Katharine E. Clark, County Clerk

APPROVED AS TO FORM:

Gregory S. Shaffer
County Attorney