

ORDINANCE NO. S2023-5

AN ORDINANCE REVISING CERTAIN ZONING REGULATIONS REGARDING CANNABIS AND THE DOWNTOWN OVERLAY DISTRICT BY AMENDING SECTIONS 10-2-B-d-i, 10-3-C-c, 10-3-C-j, AND 10-3-C-k OF THE “LAND DEVELOPMENT STANDARDS” OF THE MUNICIPAL CODE OF THE CITY OF GALLUP, NEW MEXICO AS FOLLOWS:

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GALLUP, NEW MEXICO, that:

Section 1. Section 10-2-B-d “Overlay Districts” Subsection 10-2-B-d-I “Downtown Overlay (DO) District” § 10-2-B-d-i-C “District Specific Standards” is amended by deletion of certain language and addition of new language as follows:

10-2-B-d-i-C District Specific Standards

1. Permitted Uses

- a. Permitted and conditional uses as established by the base district shall also be permitted in the DO district, except for the following uses which are specifically prohibited:
 - i. Adult Entertainment
 - ii. Adult Retail
 - iii. Cannabis Cultivation
 - iv. Cannabis-related Manufacturing
 - v. Heavy Manufacturing
 - vi. Special Manufacturing

“Exception: The provisions of this Section shall not apply to the areas of the Downtown Overlay (DO) District that lie within an underlying Industrial (I) base zone district where Cannabis Cultivation, Cannabis-related Manufacturing, Heavy Manufacturing, and Special Manufacturing shall be permitted.”

- b. A minimum of ~~fifty (50)~~ thirty (30) percent of the total ground floor area of buildings in the DO shall be occupied by uses in the residential, civic, and institutional, food and beverage, recreational and entertainment, lodging, office and services, or retail sales categories of Table 10-3-1: Use Table.

“Exception: The provisions of this Section shall not apply to areas of the Downtown Overlay (DO) District that lie within the Industrial (I) base zone district.”

Section 2. Section 10-3-C-c “Commercial: Agriculture Related” for Subsection 10-3-C-c-ii “Cannabis Cultivation” is amended by deletion of certain language and addition of new language as follows:

10-3-C-c-ii Cannabis Cultivation

2. No Cannabis Cultivation facility shall be licensed if located within three hundred (300) feet of any residential zone district including the RR, SFR, MFRL, MFRM, MFRH & MHP zone districts, or a cemetery, community/recreation center, correctional facility, day care center (≥ 7 children), educational facility (training center, post-secondary, primary/secondary) library, parks and open space, or religious institution.

“Waiver: A Waiver of the proximity distance requirements outlined above may be granted by the Planning and Zoning Commission if an adequate barrier exists between the protected uses listed above, or similar uses and the proposed Cannabis Cultivation use. For the purposes of this section, an adequate barrier is defined as: an interstate highway or a railroad right-of-way that is in current and consistent use by freight and/or passenger carriers and that separates the Cannabis Cultivation from any residential zone district, including the RR, SFR, MFRL, MFRM, MRFH, and MHP zone districts, and cemetery, community/recreational center, correctional facility, day care center (≥ 7 children), educational facility (training center, post-secondary, primary/secondary), library, parks and open space, and religious institution, and existing Cannabis Cultivation facility location and the proposed Cannabis Cultivation facility location.”

“Said waiver shall be obtained pursuant to Section 10-5-B “General Procedures” if an adequate barrier exists.”

7. This use shall be screened from view from each property line not facing a public street using a Type C buffer as described in Section 10-4-C-d-vii Required Landscape Buffers and Screens. ~~Street facing property lines that do not contain a building frontage, shall be screening by a solid eight (8) foot privacy wall setback a minimum of five (5) feet from the property line with landscaping in front of the wall.~~

Section 3. Section 10-3-C-j “Commercial: Retail Sales” for Subsection 10-3-C-j-iii “Cannabis Sales” is amended by deletion of certain language and addition of new language as follows:

10-3-C-j-iii Cannabis Sales

2. No Cannabis Sales facility shall be licensed if located within three hundred (300) feet of any residential zone district including the RR, SFR, MFRL, MFRM, MFRH & MHP zone districts, or a cemetery, community/recreation center, correctional facility, day care center (≥ 7 children), educational facility (training center, post-secondary, primary/secondary) library, parks and open space, or religious institution.

“Waiver: A Waiver of the proximity distance requirements outlined above may be granted by the Planning and Zoning Commission if an adequate barrier exists between the protected uses listed above, or similar uses and the proposed Cannabis Sales use. For the purposes of this section, an adequate barrier is

defined as: an interstate highway or a railroad right-of-way that is in current and consistent use by freight and/or passenger carriers and that separates the Cannabis Sales use from any residential zone district, including the RR, SFR, MFRL, MFRM, MRFH, and MHP zone districts, and cemetery, community/recreational center, correctional facility, day care center (≥7 children), educational facility (training center, post-secondary, primary/secondary), library, parks and open space, and religious institution, and existing Cannabis Sales location and the proposed Cannabis Sales location.

“Said waiver shall be obtained pursuant to Section 10-5-B “General Procedures” if an adequate barrier exists.”

Section 4. Section 10-3-C-k “Industrial: Manufacturing, Production and Extraction” for Subsection 10-3-C-k-ii “Manufacturing, Cannabis-Related” is amended by deletion of certain language and addition of new language as follows:

10-3-C-k-ii Manufacturing, Cannabis-Related

2. No Cannabis-Related Manufacturing shall be licensed if located within three hundred (300) feet of any residential zone district including the RR, SFR, MFRL, MFRM, MFRH & MHP zone districts, or a cemetery, community/recreation center, correctional facility, day care center (≥7 children), educational facility (training center, post-secondary, primary/secondary) library, parks and open space, or religious institution.

“Waiver: A Waiver of the proximity distance requirements outlined above may be granted by the Planning and Zoning Commission if an adequate barrier exists between the protected uses listed above, or similar uses and the proposed Cannabis-related Manufacturing use. For the purposes of this section, an adequate barrier is defined as: an interstate highway or a railroad right-of-way that is in current and consistent use by freight and/or passenger carriers and that separates the Cannabis-related Manufacturing use from any residential zone district, including the RR, SFR, MFRL, MFRM, MRFH, and MHP zone districts, and cemetery, community/recreational center, correctional facility, day care center (≥7 children), educational facility (training center, post-secondary, primary/secondary), library, parks and open space, and religious institution, and existing Cannabis-related Manufacturing facility location and the proposed Cannabis-related Manufacturing facility location.

“Said waiver shall be obtained pursuant to Section 10-5-B “General Procedures” if an adequate barrier exists.”

7. This use shall be screened from view from each property line not facing a public street using a Type C buffer as described in Section 10-4-C-d-vii Required Landscape Buffers

~~and Screens. Street facing property lines that do not contain a building frontage, shall be screening by a solid eight (8) foot privacy wall setback a minimum of five (5) feet from the property line with landscaping in front of the wall.~~

Section 5. This ordinance shall become effective after its passage and publication by title and summary as provided by law.

PASSED, ADOPTED AND APPROVED THIS 23RD DAY OF MAY 2023.

CITY OF GALLUP, MCKINLEY COUNTY, NEW MEXICO

Louis Bonaguidi, Mayor

ATTEST:

Alfred Abeita II, City Clerk