

Table 9-8-000: LCLCCD Commercial Cannabis Uses [DRAFT]										
USE	A/R	RUR-F	RUR-R	RES-F	RES-E	RES-C	TC	CN	PI	Special Conditions
Cannabis testing laboratories and cannabis research laboratories	C	C	X	X	X	X	C	P	X	Ch. 10
Cannabis manufacturers	C	C	X	X	X	X	X	C	X	Ch. 10
A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants indoors	P	P	C	C	C	C	C	P	C	Ch. 10
A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants outdoors	P	C	C	C	X	X	C	X	X	Ch. 10
A cannabis retailer without drive-through facility	X	X	X	X	X	X	C	P	X	Ch. 10
A cannabis retailer with drive-through facility	X	X	X	X	X	X	X	C	X	Ch. 10
Cannabis consumption areas that allow consumption by consumers	X	X	X	X	X	X	C	C	X	Ch. 10
Cannabis couriers	X	X	X	X	X	X	C	X	X	Ch. 10

Santa Fe County Cannabis Ordinance Regulations Summary for La Cienega and La Cieneguilla

As a result of the legalization of recreational cannabis in the State of New Mexico, the Board of County Commissioners (BCC) of Santa Fe County passed [Ordinance 2021-03](#) (“Cannabis Ordinance”), which established County-wide regulations for cultivation, retail sales, and production of commercial cannabis and cannabis products. Personal cannabis use/growing is not regulated by the County. Homegrown cannabis is intended exclusively for the personal use of the resident which includes possession of no more than 6 mature plants per adult and up to 12 for a household with multiple adults.

Furthermore, the State of New Mexico's Regulation and Licensing Department imposes strict regulations for commercial cannabis businesses (including all growers). Find general information [here](#) and the specific laws and regulations [here](#). Examples of State regulations include security fencing and lighting, commercial water rights (ex. you cannot use a domestic well for commercial cannabis growing), or requirement of a manufacturing license to sell packaged cannabis products. Please see the attached OSE’s Commercial Cannabis Growing Water Use FAQ’s for additional information.

Below is a table identifying commercial cannabis uses with their corresponding SLDC zoning use category. Please note that this table does not include all regulations. Refer to Cannabis Ordinance (SLDC Section 10.22 - see attachment) for specific definitions and additional regulations on related uses.

CANNABIS USE	SLDC ZONING USE CATEGORY
Cannabis testing/research laboratories	<i>Research and Development Services (scientific, medical, and technology)</i>
Cannabis manufacturers	<i>Food, Textiles, and Related Products</i>
A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants indoors	<i>Commercial Greenhouse</i>
A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants outdoors	<i>*Not assigned a specific SLDC Use Category. Permitted Use in Ag/Ranching and Rural zoning districts, and is a Conditional Use in Rural Fringe, Rural Residential, Residential Fringe and Traditional Community zoning districts.</i>
Cannabis Retailer	<i>Store or Shop with drive-through, Store or Shop without drive-through</i>
Cannabis consumption that allows consumption by consumers	<i>Bars, taverns and nightclubs</i>
Cannabis couriers	<i>Courier and messenger service facilities</i>

The Cannabis Ordinance included a provision to allow Community Districts within the County to consider different commercial cannabis regulations to reflect their community’s individual needs, goals, and character. Section 10.22.10 of the cannabis ordinance states, “Nothing in this Section shall preclude different cannabis regulations from being adopted for Community District Overlays.” The Planning Committee now has the opportunity to consider changes to better suit the communities of La Cienega and La Cieneguilla.

Currently, the La Cienega/La Cieneguilla (LCLC) Community District Overlay has the same commercial cannabis regulations as the corresponding SLDC zoning use categories. Handout 3.2 is a reference table that organizes the current zoning regulations for commercial cannabis uses with the zoning districts of the LCLC overlay.

Example from SLDC Section 9.14, San Marcos Community District Overlay.

9.14.4.2 Commercial Cannabis Uses; Purpose. The purpose of the Commercial Cannabis Uses section in the SMCD is to support economic development and agricultural opportunities that are not disruptive to the residential character of the area or significantly interfere with the use of adjacent properties. Cannabis Uses are designated as permitted, accessory, or conditional, as further explained in Table 9-14-8. Cannabis Uses shall be as regulated in Chapter **10** of this Code except as prescribed in Table 9-14-7.

Table 9-14-7: SMCD Commercial Cannabis Uses					
Use	SMCD RUR	SMCD RUR-F	SMCD RUR-R	SMCD CN	Special Conditions
Cannabis testing laboratories and cannabis research laboratories	X	X	X	C	Ch. 10
Cannabis manufacturers	X	X	X	X	—
A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants indoors	C	C	X	C	Ch. 10
A cannabis producer or cannabis producer microbusiness that cultivates cannabis plants outdoors	C	C	X	X	Ch. 10
A cannabis retailer	X	X	X	C	Ch. 10
Cannabis consumption areas that allow consumption by consumers	X	X	X	X	—
Cannabis couriers	X	X	X	X	—

The New Mexico Cannabis Regulation Act, defined in Sections 1 through 42 [26-2C-1 to 26-2C-42 NMSA 1978] was enacted on April 12, 2021, requiring that an applicant requesting to produce cannabis for sale to demonstrate the legal right to a commercial water supply, a valid water rights or another supply of water sufficient to meet the water needs as determined by the Regulation and Licensing Department. Proof must be evidenced by documentation from the office of the state engineer of a valid water right or a letter from a water provider stating that the use of water for cannabis production is compliant with that water providers rules.

Q: Can I grow cannabis using water from my domestic well?

A: While you may use a domestic well for personal (non-commercial) cannabis growth allowable by law, similar to water use for a garden, domestic well permits do not allow water to be used in growing any commercial crops, including cannabis. Cannabis producers must acquire valid irrigation rights for outdoor cultivation or commercial water rights for indoor cultivation. If you do not have them, you will have to acquire valid commercial or irrigation rights from someone who does, then transfer those rights into your existing well with a permit from the Office of the State Engineer (OSE). All permit approvals will require meter installation and reporting of the usage.

Q: I have a well that was permitted for Drinking and Sanitary Uses in conjunction with a Commercial Operation, can that be used to grow cannabis?

A: No, that well is drilled under statute 72-12-1 NMSA which does not allow the use to grow commercial crops. This well is only allowed for uses such as sinks and bathrooms for a business. A drinking and sanitary well may, however, be used to supply water to your facility for hand washing as required by CCD regulation which states: 16.8.2.27(F)(4) NMAC, "hand-washing facilities are provided that are adequate, accessible, furnished with running water at a suitable temperature, conveniently located in indoor production facilities, in restrooms, and wherever good sanitary practices require employees to wash or sanitize their hands, and stocked with effective hand-cleaning and sanitizing preparations, and sanitary towel service or suitable drying devices".

Q: I own property that has an acequia (ditch), stream, river, spring or waterway running through it, does that mean I have water rights?

A: Do not assume that you have water rights because you have bought property with an acequia, ditch, river, stream, spring or waterway running through it. Check with the OSE, local District Office to research water rights on your property.

Q: I found someone willing to sell me water rights that I will need to move to my property, is there anything I should be concerned with before purchasing these water rights?



Note: This FAQ sheet is intended to assist those interested in commercial cannabis cultivation. This may be updated and subject to revision. Page 1 of 2

This version is valid as of 09/24/2021

- A: If someone offers to sell you water rights from an acequia system, check to see if that acequia commission has bylaws that prohibit or limit such transfers. Most acequia commissions do have bylaws, and they often have the right to refuse the transfer. Also, you must research to make sure the water rights that you are being offered are valid rights. There are also some specific rules governing groundwater basins that limit how water can be transferred to different places of use. Check with the OSE, local District Office to find out more about what restrictions might be in place for transferring water rights.
- Q: I found a water right for sale, is there a process to expedite the transfer?
- A: No, unfortunately, this does not qualify as an emergency request pursuant to statutes 72-12-22, 72-12-24, 72-12-25, or 72-5-25 NMSA.
- Q: What is the timeline for changing the place, purpose, and/or point of diversion of water rights?
- A: Once you have found water rights to purchase, get ready to get in line again. The Office of the State Engineer has over 500 non-cannabis related water applications backlogged statewide to act upon, with an average wait time of eight to 10 months. If someone protests the application or contests those water rights, it could take another possible one to two years of waiting while the protest is resolved through legal processes.
- Q: Can I collect rainwater to grow commercial cannabis?
- A: Rainwater captured via rooftop catchment, which is allowed, is NOT a valid water right so this will not suffice as a water source for the purposes of commercial cannabis growing. You may use rainwater caught from your rooftop only to supplement a valid water right, but that is all.
- Q: What if I am connected to a commercial or municipal water system?
- A: If, on the other hand, you are buying or renting a facility connected to a commercial or municipal water systems, your road will be easier to travel because you can connect to those systems as a paying customer and prove you have the water or "right" to use it. If you are planning to operate out of a building in, say, Albuquerque, the Albuquerque-Bernalillo County Water Utility Authority (ABCWUA) has water rights for commercial, agriculture, and domestic use so you are just buying it from ABCWUA and you can show you are a customer of the authority.
- Q: I want to grow in a hoop house with my irrigation right?
- A: Growing in a hoop house is considered a greenhouse and would require a commercial water right.



Q: Can I have water hauled to me through a water hauler to allow me to grow or process cannabis?

A: No, having water hauled to you does not establish a valid water right.



Note: This FAQ sheet is intended to assist those interested in commercial cannabis cultivation. This may be updated and subject to revision. Page **3** of **2**
This version is valid as of 09/24/2021

*Santa Fe County, NM
Tuesday, July 16, 2024*

Exhibit 150A. Sustainable Land Development Code

CHAPTER 10. SUPPLEMENTAL ZONING STANDARDS

§ 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^[1] of the SLDC.

[1] Editor's note—Appendix B is included as an attachment to this exhibit.

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 nonresidential 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^[2] 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.

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.

[2] *Editor's note—Appendix B is included as an attachment to this exhibit.*

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.

10.22.6.2 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.

(Ordinance 2021-03 adopted 7/30/2021)