

**BE IT ORDAINED BY THE GOVERNING BODY OF THE VILLAGE OF BOSQUE FARMS, NEW MEXICO:**

**AMENDMENTS TO 10-1 COMPREHENSIVE ZONING ORDINANCE**

**§ 10-1-4 Definitions.**

A. For the purpose of this Section 10-1, standard dictionary definitions shall be used except for certain words or phrases used herein, which shall be interpreted as follows:

- (1) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- (2) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (3) The words "shall" and "must" are mandatory, and the word "may" is permissive.

B. As used in this Section 10-1, the following terms shall have the meanings indicated:

**ABANDONED WELL**

A wellhead whose use has been permanently discontinued or which is in such disrepair that its continued use for the purpose of obtaining groundwater is impracticable or may constitute a health hazard.

**ACCESSORY LIVING QUARTERS**

Temporary living quarters within an allowed accessory structure only for the reason of a legitimate hardship or medical necessity. This unit shall not be used as a rental unit and shall not exceed 500 square feet of floor space.

**ACCESSORY USES AND STRUCTURES**

Uses and structures that are customarily accessory and clearly incidental and subordinate to principal uses and structures.

**ADULT ENTERTAINMENT ESTABLISHMENT**

A business which either directly or indirectly provides sex-related products and services or adult entertainment.

**AGENT**

Anyone authorized by a notarized letter signed by the property owner to represent same.

**AGRICULTURAL ANIMAL**

Animals other than dogs, cats and indoor birds, such as horses, cows, pigs, sheep, llamas, chickens, etc., such as would typically be found in an agricultural environment.

[Added 8-18-2016]

**AGRICULTURAL EQUIPMENT**

Farm field and farmstead machinery used for the production of crops and agricultural livestock.

**ANIMAL SANCTUARY/SHELTER**

A nonprofit facility for the short- or long-term care and custody of animals, which may include lost pets, owner-released pets, cruelty cases, rescued animals and/or permanent retirement candidates.

**BAIL BOND**

A written promise signed by a defendant or a surety (one who promises to act in place of another) to pay an amount fixed by a court should the defendant named in the document fail to appear in court for the designated criminal proceeding at the date and time specified.

**BANKING AND FINANCIAL SERVICES**

Any state or federally chartered bank, saving association, credit union, or industrial loan company, retail seller engaged primarily in the business of selling consumer goods that cashes checks or issues money orders as an incidental service to its main purpose or business and which is offered as a service to customers, but excludes any establishment whose primary purpose is to provide cash advances, payday loans, payday advances, and similar services.

**BED-AND-BREAKFAST**

An owner-managed and -occupied residential structure used as a lodging establishment where a room or rooms are rented on a nightly basis, and in which only breakfast is included as a part of the basic compensation.

**BODY ART**

Tattooing, body piercing or scarification, but does not include practices that are considered medical procedures by the New Mexico Medical Board.

**BODY ART/MODIFICATION ESTABLISHMENT**

Any establishment that engages in the business of tattooing and/or branding and body piercing of human beings, including scarification. A permanent picture,

design, or other marking made on the skin by pricking it and staining it with an indelible dye. This excludes the application of permanent makeup in a salon setting with appropriate equipment and the piercing of ears with the use of a piercing gun.

#### **CHECK CASHING/PAYDAY LOAN ESTABLISHMENT**

Any establishment whose primary purpose is to provide cash advances, payday loans, payday advances, and similar services. It does not include a state or federally chartered bank, saving association, credit union, or industrial loan company, retail seller engaged primarily in the business of selling consumer goods that cashes checks or issues money orders as an incidental service to its main purpose or business and which is offered as a service to customers.

#### **COLLECTOR STREET**

A street that serves as a connection between a major or secondary thoroughfare and several minor streets. The term includes the principal entrance streets of a residential development and streets for major circulation within such a development.

#### **COMMISSION**

The Village of Bosque Farms Planning and Zoning Commission.

#### **COMMON AREA**

An area inside a housing development that is owned by all residents or by an overall management structure which charges each tenant for maintenance and upkeep.

[Added 8-18-2016]

#### **CONDITIONAL USE**

One of those uses enumerated as conditional uses in a given zone district. A permit for such use shall be granted upon approval by the Commission. A conditional use permit shall be either permanent or renewable, as established by this Section 10-1.

#### **CONTAMINATION**

The presence of any harmful substance which is likely to unreasonably injure human health, animal or plant life, property, or public welfare.

#### **CONTIGUOUS**

Abutting or touching and/or separated by nothing more than a ditch, canal, or right-of-way.

#### **DAY-CARE FACILITY**

~~An establishment or facility which has the primary function of providing care, services and supervision to children.~~ ("Childcare center") means a facility required

to be licensed under these regulations that provided care, services, and supervision for less than 24-hours a day to children. A childcare center is in non-residential setting (unless approved by the Planning and Zoning Commission) and meets the applicable state and local building and safety codes N.M. Code R § 8.16.

#### **DEVELOPMENT**

Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

#### **DWELLING UNIT**

Any structure or part of a structure intended for human occupancy and containing one or more connected rooms and a single kitchen designed for and occupied by no more than one family for living and sleeping purposes. A dwelling unit may include a mobile home, a modular housing unit, manufactured house, site-built house or planned residential development.

#### **DWELLING UNIT, CONVENTIONAL**

A single-family detached dwelling unit which is installed on a permanent ~~foundation~~foundation, and which is either:

- (1) A site-built unit constructed in accordance with the standards of the New Mexico Uniform Building Code; or
- (2) A multi-section manufactured home or modular home that is a single-family dwelling with a heated area of at least 36 feet by 24 feet and at least 864 square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act (NMSA 1978, Chapter 60, Article 14) and with the regulations made pursuant thereto relating to permanent foundations.

#### **DWELLING UNIT, CARETAKER**

The dwelling unit of a person who takes care of the property of an owner in the owner's absence. A caretaker dwelling unit shall allow for spouses and dependent children. The caretaker dwelling unit shall be within one of the structures located on the lot, or it may be a separate structure, mobile home/manufactured home, or modular unit.

#### **EASEMENT**

Rights granted to public utilities for ingress and egress to serve water, sewer, telephone/cable, gas and electric lines and the right granted to a landowner for

ingress and egress to property by either purchase, deed, or adverse possession or any other legal means.

**FAMILY DAY-CARE HOME**

An occupied dwelling unit in which a person provides, for remuneration, care for at least five children but not more than six children, provided that no more than two of those children be under the age of two, on a regular basis for fewer than 24 hours per day. The resident provider's children who are age six or more shall not be counted for this definition.

**FENCE**

A structure, other than a building, which serves as a barrier and is used as a boundary or means of protection or confinement. This includes a masonry fence or wall and privacy fence.

**FORTUNE TELLERS**

Fortune tellers, psychics, clairvoyants, palmists, and similar trades.

**FRONTAGE**

A distance measured along a roadway right-of-way line.

**GALVANIZED STEEL**

A metal panel coated with zinc or corrosion resistance material.

**GARAGE OR YARD SALE**

A sale of used household or personal articles held on the seller's premises.

**GOVERNING BODY**

The Village of Bosque Farms Council.

**GRADE**

The average elevation of the finished ground level at the center of all walls of a building or all sides of a structure.

**GROUNDWATER**

Water found beneath the land surface in a saturated zone.

**GUEST ROOM**

A room or a group of rooms forming a single habitable unit which is located within the walls of a dwelling unit and which is used or intended to be used for sleeping and living, but not for cooking or eating purposes, and which is rented individually as a unit.

**HARDSHIP**

To cause privation or suffering.

## **HAZARDOUS MATERIALS**

Substances defined in Section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or as regulated under Subtitle C of the Federal Resource Conservation and Recovery Act (RCRA).

## **HAZARDOUS WASTE**

Materials that are corrosive, flammable, reactive or toxic.

## **HEIGHT**

When applied to a building, the vertical distance from the finished lot grade to the highest point of the coping of a flat roof, or the deck line of a mansard roof or the average height between the plate and the ridge of a gable, hip, or gambrel roof, or to the highest point of any other roof style not mentioned in this definition.

## **HOME OCCUPATION**

An occupation or activity clearly incidental and secondary to use of the premises for a dwelling unit; requires home occupation approval from either the Planning and Zoning Administrator/Officer or Commission depending on the type of use requested as per § 10-1-13L.

## **INOPERABLE MOTOR VEHICLE**

Any motor vehicle which is incapable of being propelled under its own power.

## **KENNEL**

- (1) **COMMERCIAL KENNEL** Any building, buildings or land designed or arranged for boarding dogs, cats, and other household pets, and where grooming, breeding, boarding, training or selling animals is conducted in the Commercial Zone (C-1).
- (2) **HOBBY KENNEL** Any building, buildings or land designed or arranged for housing dogs, cats, and other household pets belonging to the property resident in all residential zones (A-R, R-1, and R-1A).

## **KITCHEN**

A room or other place equipped with any combination of the following: a stove/oven, refrigerator, small cooking devices, a sink, where food may be stored or prepared.

## **LOCALIZED STORMWATER**

Surface water deposited on a particular area of land by direct precipitation and not by an overflow of surface waters from other land areas.

### **LOCAL STREET**

A street of relatively short length that provides direct access to a limited number of contiguous residential properties designed to discourage use by through traffic.

### **LOT**

An area of land, described by metes and bounds, recorded and filed in the Valencia County Clerk's office in accordance with appropriate laws and ordinances. Such lot shall have frontage on a dedicated public right-of-way or on an approved private roadway for ingress and egress.

### **MEDICAL USE OF CANNABIS ESTABLISHMENT**

Any facility, building, space, or grounds licensed for the production, possession, testing, manufacturing, or distribution, ~~recreational -of use of~~ cannabis, concentrates or cannabis-derived products, unless restricted by 10-1-28 of the Village of Bosque Farms Ordinance-

### **METAL INTAKE/RECYCLING CENTER**

Any business engaged in purchasing or otherwise acquiring for sale or barter any material such as old iron, copper, brass, lead, zinc, tin, aluminum or other metals, metallic cable, wire, rope, bottles, rubber, batteries, e-scrap or other like material.

### **MOBILE HOME**

Also known as "manufactured housing"; a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used for a dwelling with or without a permanent foundation when connected to the required utilities and includes plumbing, heating, air conditioning, and electrical systems contained therein.

### **MOBILE HOME PARK**

An area of land on which space is leased or rented for occupancy for 30 days or more by mobile homes, and which contains permanent facilities and services for the use of the mobile home occupants.

### **MODULAR STRUCTURE**

Any structure built for use of occupancy by persons or property, whether or not designed to be placed on a permanent foundation. Modular structures include factory-built buildings and subassemblies for manufactured residential and commercial units, modular homes and pre-manufactured homes. Modular structures do not include non-assembled component parts that are subject to all

permit and inspection requirements, or to manufactured housing structures that are subject to federal regulation as per NMAC § 14-12-3.7.K.

**MOTOR VEHICLE**

A vehicle (such as, but not limited to, a car, truck, or motorcycle) that is powered by a motor and was at any time designed to carry passengers.

**MOTOR VEHICLE SALES LOT**

Any lot or parcel of land where a dealer sells new/used/consignment motor vehicles.

**MULTI-SECTION MANUFACTURED HOME OR MODULAR HOME**

A single-family dwelling with a heated area of at least 36 feet by 24 feet and at least 864 square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act (NMSA 1978, Chapter 60, Article 14) and with the regulations made pursuant thereto relating to permanent foundations.

**NONCONFORMING USES, LOTS, OR STRUCTURES**

A structure or use of a structure or land which does not conform to the regulations of this Section 10-1 and which lawfully existed on the effective date of those regulations with which it does not conform.

**OVERLAY ZONE DISTRICT**

An overlay zone district is created to identify a special resource or development area and to adopt new provisions that apply in that area in addition to the provisions of the underlying zone district. The provisions of an overlay zone district can be more restrictive or more expansive than those contained in the underlying zone district. An overlay zone district can be coterminous with existing property boundaries or contain only parts of one or more properties and may extend over more than one zone district.

**OVERLAY ZONE, WELLHEAD PROTECTION**

An area designated by the Village of Bosque Farms to protect the groundwater source of municipal water supply wells from contamination originating from human activities.

**OWNER-OCCUPIED**

A dwelling occupied by a person or persons who shall own at least 51% of said



dwelling unit.

**PAWNBROKER**

An individual or business (pawnshop or pawn shop) that offers secured loans to people, with items of personal property used as collateral.

**PERMISSIVE USE**

A specific use allowed in a particular zone district.

**PLANNED RESIDENTIAL DEVELOPMENT (PRD)**

A development approach that creates open space in residential development and encourages imaginative site building and design by permitting greater flexibility in zoning requirements than is permitted by other sections of this Section 10-1.

**PREMISES**

Any lot or combination of contiguous lots held in single ownership, together with the development thereon.

**RECREATIONAL VEHICLE**

A structure which is designed or used as temporary living quarters for recreation, camping, or travel, and which may be a self-propelled motor vehicle or designed to be towed or mounted on a motor vehicle.

**REGULATED BUSINESS**

Any business requiring additional regulation as listed under § 10-1-11G.

**RIGHT-OF-WAY**

A dedicated and accepted public land deeded to the Village of Bosque Farms, reserved by plat, or otherwise acquired by the Village, county, or state for the use of the public for the movement of people, goods, and vehicles.

**ROADWAY**

That portion of public right-of-way or private way or thoroughfare which is primarily devoted to vehicular use.

**SALVAGE OR SCRAP FACILITY**

A salvage yard, scrap yard, wrecking yard, junkyard, dismantler or any entity in the business of outdoor storage or deposit for storing, keeping, processing, buying or selling disused vehicles, disused machinery or other disused goods or materials for resale.

**SCHOOL**

Means facility conducting a supervised program of instruction designed to educate

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a student in a particular place, manner and subject area.

**SCRAP TIRE**

A tire that is no longer suitable for its originally intended purpose because of wear, damage, defect or obsolescence.

**SERVICE BAY**

Any enclosed work area for the maintenance or repair of vehicles, comprising an average floor area of 420 square feet per bay to accommodate both service and access requirements.

**SETBACK**

The required distance between every building or structure (fences, walls, and signs excepted) and a boundary line of the lot upon which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure, except as otherwise provided in this Section 10-1.

**SETBACK, FRONT**

The minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, bordering on a roadway.

**SETBACK, REAR**

The minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, which is opposite and most distant from a roadway and does not intersect with a roadway.

**SETBACK, SIDE**

The minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, which intersects a roadway.

**SIGN**

A device designed to inform or attract the attention of persons not on the premises on which the device is located. All signs within the Village of Bosque Farms shall require a permit, unless otherwise specified, in accordance with this Section 10-1 (§ 10-1-20).

**SKID ROW**

A high density of businesses that may have the potential to create adverse effects on the surrounding area and community.

**SMOKE SHOP**

Any business devoting more than 15% of the total floor space for display for sale of smoking or tobacco paraphernalia or whose gross dollar volume of business is over

25% from sales of smoking or tobacco paraphernalia.

**SOLID FENCE**

Block, ribbed metal panels, adobe, solid vinyl wood panel or other fencing that has 0% open area.

**SPECIAL USE PERMIT**

A permit approving uses which require special consideration as listed in § 10-1-11F.

**STRUCTURE**

Anything constructed, placed, or erected above ground level which requires location on the ground or is attached to something having a location on the ground, but not including a tent, vehicle, vegetation, public utility pole or line, signs or fences. For the purpose of this Section 10-1, a mobile home is a structure, with or without wheels, when located on any lot.

**SUBSTANTIAL IMPROVEMENT**

- (1) Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:
  - (a) Before the improvement or repair is started; or
  - (b) If the structure has been damaged and is being restored, before the damage occurred.
- (2) For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
  - (a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
  - (b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**TIRE SHOP**

Any entity conducting sales or services of tires, including, but not limited to, changing, replacing, balancing, aligning or otherwise servicing tires or the sales of new or used tires.

**TRAILER**

A nonmotorized vehicle designed to be pulled behind a motor vehicle.

#### **UNDERGROUND STORAGE TANK**

A single tank or combination of tanks, including underground pipes connected thereto, which are used to contain an accumulation of fuels, hazardous materials, or other regulated substances, and the volume of which, including the volume of the underground pipes connected thereto, is 10% or more beneath the surface of the ground. This definition does not include septic tanks.

#### **VARIANCE**

A relaxation of the terms of this Section 10-1 where such relaxation will not be contrary to the public interest (§ 10-1-16).

#### **VEHICLE**

Any motor vehicle, recreational vehicle, trailer or agricultural equipment.

#### **VEHICLE REPAIR, LIGHT**

Checking and topping off of fluids (not changing fluids), replacement of bulbs and fuses, checking and adjusting of tire pressure (not changing of tires), charging of batteries (not changing), windshield repair.

#### **VEHICLE REPAIR, MAJOR**

Repairs that produce relatively high levels of noise, vibration and fumes and, more specifically, include the following types of repairs to motor vehicles and repairs of a similar nature with respect to impacts on nearby properties: air conditioning service, brake repair/replacement, engine oil changes, fluids replacement, exhaust system repair/replacement, auto body customizing, auto body sheet metal/fiberglass/plastic repair/replacement, auto body prepping/painting/media blasting, chassis fabrication/repair, complete engine/transmission rebuild and replacement.

#### **VEHICLE REPAIR, MINOR**

Repairs and servicing that will produce relatively low noise, vibration and fumes and, more specifically, include the following types of repairs to motor vehicles: shock absorber/spring/strut replacement, tire balancing/installation, wheel alignment, windshield/glass replacement, tune-ups, diagnostics, emission control service.

#### **VISUAL BARRIER FENCE**

Wood panel fencing, chain-link with slats, mesh fencing or any other fencing which provides 25% or less open area per square foot of fencing.

#### **WAREHOUSING OPERATIONS**

Includes use of any building, structure or other protected enclosure in which goods,

materials or agricultural products are or may be stored.

**WELLHEAD**

The structural element of a constructed water well which is the source of a groundwater supply system.

**ZONE MAP**

A map of the Village of Bosque Farms that delineates the zone district boundaries within the Village boundaries.

**10-1-11 (G) Regulated business**

**(1)** Application. Regulated businesses shall apply on prescribed forms to the Planning and Zoning Administrator/Officer at least 20 days prior to the Planning and Zoning Commission meeting date when the application will be considered. Each application for a regulated business shall be accompanied by a site development plan as described in Subsection **C** of this § 10-1-11. (See also Subsection **H**.) Submission of inaccurate information with an application is grounds for denial.

**(2)** Preliminary public meeting. The Commission shall hold a public meeting at which there will be a hearing to evaluate the regulated business application and shall submit its recommendation in writing to the governing body. Notice of the public meeting shall be given in accordance with the Open Meetings Act (NMSA 1978, §§ 10-15-1 to 10-15-4) at least 15 days prior to said meeting.

**(3)** Public notification. The applicant shall post and maintain one or more signs on the premises, as provided and where instructed by the Planning and Zoning Administrator/Officer, at least 15 days prior to the date of the Commission and governing body meetings at which the application will be heard.

**(4)** Commission recommendation. All applications for a regulated business shall first be reviewed by the Commission, which shall submit a written recommendation concerning the application to the governing body. If the Commission fails to make such a written recommendation to the governing body within 45 days after receipt thereof, then the governing body shall act upon said application without a recommendation by the Commission.

**(5)** Final public hearing. The governing body shall conduct a public hearing at which all parties in interest and citizens shall have an opportunity to be heard. Notification of the time and place of the public hearing shall be given in accordance with the Open Meetings Act (NMSA 1978, §§ 10-15-1 to 10-15-4) at least 15 days prior to the hearing. The notice of public meeting published 15 days before the Commission meeting shall be considered sufficient notice if it also has included the time and place of the public hearing to be held by the governing body.

#### **H. Regulated business types**

The following uses shall be considered regulated businesses. Additional reasonable requirements may be required by the Commission or governing body as the situation warrants:

**(1)** "Adult entertainment establishment" includes but is not limited to an adult bookstore, adult sex accessories/products or services, adult cabaret, adult photo amusement establishment, adult photo studio, adult theater, adult video arcade, adult body oil or lotion demonstration parlors, strip clubs or gentlemen's clubs.

**(a)** No person under 18 years of age may enter the business even if he is accompanied by an adult.

**(b)** All clerks/personnel shall be 18 years of age or older.

**(c)** The establishment may not display any form of advertising for adult-oriented products or services in view of the public, with the exception of any on-site sign that contains the name of a business for the purpose of identifying the business.

**(d)** If the applicant is an individual, the Planning and Zoning Administrator/Officer shall obtain the current residence address of the applicant, together with the applicant's social security number. If the applicant is a partnership, the applicant shall disclose the names of all partners. If the applicant is a corporation, the applicant shall disclose the state of incorporation, the date of incorporation, the name and address sufficient for service of process of the registered agent within New Mexico and of each officer and director of the corporation. Further, the Planning and Zoning Administrator/Officer shall obtain the social security number of each officer or director of the corporation, it being the intention of this provision that the social security number shall be utilized to assist in obtaining background information on the officers and directors of the corporation. If the applicant is other than an individual, the applicant shall name a managing agent and provide that person's address and social security number. It shall be the responsibility of the applicant to pay any applicable fees on background checks.

**(e)** Evidence that the owner, registered agent, resident manager or any officer or director of any corporation has been convicted or pled guilty to any felony or misdemeanor involving a crime of moral turpitude, including, but not limited to, sex offenses or violation of child pornography laws or other laws restricting or regulating the dissemination of adult-oriented material within five years preceding the date of this application will result in

denial of the application.

**(2)** "Body art/modification establishment" includes but is not limited to a tattoo shop/parlor, scarification shop/parlor and body piercing shop/parlor.

**(a)** Prior to receiving initial and annual renewal of a business license for a body art/modification establishment, each business owner must provide evidence to the Planning and Zoning Administrator/Officer that the body art establishment successfully passed a state inspection pursuant to the Body Art Safe Practices Act (NMSA 1978, § 61-17B-1 et seq.) during the preceding calendar year. In the event that the body art establishment has not been inspected by the state through no fault of the business owner, the owner may apply to the Village for a thirty-day extension of time, allowing the business to operate temporarily until an inspection can be performed. If the body art establishment fails to successfully pass a state board inspection, the body art establishment shall suspend body art activities until it passes a re-inspection.

**(b)** Administering body art on any person 18 years of age or under is prohibited.

**(c)** Proof of age will be shown by a government-issued photo identification accompanied by at least one other government-issued document showing proof of age, such as a birth certificate.

### **(3) "Cannabis Establishment"**

#### **DEFINITIONS:**

The words and phrases below wherever used in 10-1-11 (3), shall be construed as defined in the section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

1. "Chemical Extraction" means the process of removing a particular component of a mixture from others present, including removing resinous tetrahydrocannabinol from cannabis.

2. "Chemical Synthesis" means production of a new particular molecule by adding to, subtracting from, or changing the structure of a precursor molecule.

3. "Commercial Business" is an activity conducted by companies to provide goods or services for sale. Commercial business includes the activity done outside of manufacturing or producing the products. Commercial business can also include the

use of land or business for business activity, such as retail stores.

**4. "Commercial Cannabis Activity"**

- a. means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and
- b. 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.

**5. "Consume," "Consuming," and "Consumption"** mean the act of ingesting, inhaling or otherwise introducing cannabis into the human body.

**6. "Consumer"** means an individual who is at least twenty-one years of age and who purchases cannabis or cannabis products.

**7. "Cultivate". and "Cultivation"** means to propagate, breed, grow, prepare, and package cannabis.

**8. "Department".** means the State of New Mexico Department of Health Services or its successor agency.

**9. "Dual Licensee"** means an entity that holds both a nonprofit medical cannabis dispensary registration and a cannabis establishment license.

**10. "Extraction"** means the process of extracting or separating resin from cannabis to produce or process any form of cannabis concentrates using water, lipids, gases, solvents, or other chemicals or chemical processes.

**11. "Manufacture" and "Manufacturing"** mean to compound, blend, extract, infuse or otherwise make or prepare a cannabis product.

**12. "Marijuana"** means all parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin.

a. Includes cannabis as defined in N.M.R.S. §26-2B-4, §26-2B-5

b. Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the marijuana to prepare topical or oral administrations, food, drink, or other products.

**13. "Cannabis Concentrate:"** means resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or



preparation of that resin or tetrahydrocannabinol.

- a. Does not include industrial hemp, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other products.

**14.** "Cannabis Establishment" means an entity licensed by the Department to operate all the following:

- a. A single retail location at which the licensee may sell cannabis and cannabis products to consumers, cultivate cannabis and cannabis products.
- b. A single off-site cultivation location at which the licensee may cultivate cannabis, process cannabis and cannabis products, but from which cannabis and cannabis products may not be transferred or sold to consumers.
- c. A single off-site location at which the licensee may package and store cannabis and cannabis products and package and store cannabis and cannabis products, but from which cannabis and cannabis products may not be transferred or sold to consumers.

**15.** "Cannabis Products" means cannabis concentrate and products that are composed of cannabis and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

**16.** "Cannabis Testing Facility" means the Department or another entity that is licensed by the Department to analyze the potency of cannabis and test cannabis for harmful contaminants.

**17.** "Nonprofit Medical Cannabis Dispensary" means a non-profit entity as defined in N.M.R.S. §26-2B-4, §26-2B-5.

**18.** "Open Space" means a public park, public sidewalk, public walkway, or public pedestrian thoroughfare.

**19.** "Person" means an individual, partnership, corporation, association, or any other entity of whatever kind or nature.

**20.** "Process" and "Processing" means to harvest, dry, cure, trim, or separate parts of the marijuana plant.

**21.** "Public Place" has the same meaning prescribed in the Dee Johnson Clean Indoor Air Act, N.M.R.S. § 24-16-3.

**22.** "Smoke" means to inhale, exhale, burn, carry, or possess any lighted cannabis or lighted cannabis products, whether natural or synthetic.

**A. CANNABIS PROHIBITED ON PUBLIC PROPERTY**

1. The use, sale, cultivation, processing, production, storage or distribution of cannabis or cannabis products is prohibited on property that is occupied, owned, controlled, or operated by the Village.
2. It is unlawful for an individual to smoke cannabis or consume cannabis products on property that is occupied, owned, controlled, or operated by the Village, or in any open or public area.

**B. CULTIVATION OF CANNABIS**

1. Cultivation of cannabis shall include any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis and is protected under NMSA, Article 9, §§ 47-9-7, the Right to Farm Act.
2. Unless otherwise determined by the State of New Mexico cannabis manufacture may only take place in a Commercial Zone as a regulated business. § 10-1-11 G

**(4)** "Smoke shop" includes but is not limited to a head shop, hookah bar, hookah lounge, herbal/tobacco smoke shop or vapor dealer.

- a. No person under twenty-one (21) years of age may enter the business even if he is accompanied by an adult.
- b. All clerks/personnel shall be twenty-one (21) years of age or older.
- c. No products may be sold by means of self-service or vending machine assistance.
- d. Smoke shops may not display any form of advertising for tobacco products in visible locations, with the exception of any on-site sign that contains the name of a business that lawfully sells tobacco products that have been placed at or upon the business premises for the purpose of identifying the business.
- e. Businesses shall not distribute free tobacco products or promotional items.
- f. Businesses shall not sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings.
- g. Businesses must comply with all state and federal laws and regulations.
- h. No smoking shall be permitted inside the shop.

**(5)**

"Check cashing/payday loan establishment" includes but is not limited to cash advances, payday advances, payday loans, title loans, and check cashing establishments.

- a. Establishments shall comply with all federal and state regulations.
- b. Establishments may not display any form of advertising for loan or check cashing services in visible locations, with the exception of any on-site sign that contains the name of a business that lawfully conducts loans or check cashing services that has been placed at or upon the business premises for the purpose of identifying the business.

**(6)**

Bail bonds:

- a. Shall comply with all federal and state regulations.
- b. May not display any form of advertising bail bond services in visible locations, with the exception of any on-site sign that contains the name of a business that lawfully conducts bail bond services that has been placed at or upon the business premises for the purpose of identifying the business.

**(7)**

Pawn brokers:

- a. Shall comply with all federal and state regulations.
- b. May not display any form of advertising for pawn broker services in visible locations, with the exception of any on-site sign that contains the name of a business that lawfully conducts pawn broker services that has been placed at or upon the business premises for the purpose of identifying the business.

**(8)**

Fortune tellers:

- a. Shall comply with all federal and state regulations.
- b. May not display any form of advertising for fortune telling services in visible locations, with the exception of any on-site sign that contains the name of a business that lawfully conducts fortune telling services that has been placed at or upon the business premises for the purpose of identifying the business.

**(9)**

"Metal intake/recycling center" includes but is not limited to recycling centers, aluminum transfers, bottle exchanges, or scrap metal dealers.

- a. Site fencing. A solid fence at least six feet in height, as defined in § 10-1-4, with exception to the front setback area being no taller than four feet in height, shall be erected on all perimeters.
- b. Parking of semi-tractor trailer rigs used for moving or transporting materials shall be limited to two units and must be stored out of public view.

- c. A maximum of three roll-off storage bins will be allowed on the property and must be stored out of public view.
- d. Any and all salvage or scrap material will be unloaded on an appropriate concrete pad or the inside of the building and stored out of public view.
- e. Centers shall comply with all federal and state requirements and regulations.

**(10)**

"Salvage or scrap facility" includes but is not limited to salvage yards, scrap yards, wrecking yards, junkyards, dismantlers, or any entity in the business of outdoor storage or deposit for storing, keeping, processing, buying or selling disused vehicles, disused machinery or other disused goods or materials for resale.

[Amended 10-20-2016]

- a. All vehicle parking areas for customers shall be paved or surfaced with base course.
- b. All areas where salvage containing EPA-regulated fluids are stored must be paved.
- c. Each vehicle space shall require at a minimum the length and width of the vehicle plus a two-foot access aisle around the perimeter of the vehicle.
- d. Minimum setbacks from all rights-of-way and property lines for all parked, displayed or stored vehicles shall be four feet.
- e. Solid fence, to provide a visual barrier at least six feet high as defined in § 10-1-4, shall be maintained between the activity and contiguous residential zone districts.
- f. Provisions are made to adequately handle, contain and control all hazardous waste and shall meet all EPA requirements.
- g. All miscellaneous materials and parts must be stored within an enclosed building.
- h. Other conditions as may be required by the Commission. As of November 1, 2016, all regulations for § 10-1-11H(10) shall be complied with no later than May 1, 2017; and all noncompliant uses, including any uses holding a certificate of noncompliance, shall cease unless brought into compliance with these regulations. A possible extension of up to six (6) months may be granted at the Planning and Zoning Commission's discretion upon application to the Planning and Zoning Administrator/Officer.

**10-1-11 (I) Regulated business requirements**

Anti-skid-row regulations shall apply to all regulated businesses in an effort to disperse businesses evenly across the Village in order to avoid a high-density area, or skid row

effect. All regulated businesses shall comply with the distance requirements listed below (See also § 10-1-11G.):

**(1)**

Shall be at a location no closer than one-thousand (1,000) feet to another regulated business. All measurements shall be the shortest direct line measurement between the main entrance and the proposed premises main entrance.

**(2)**

Shall be at a location no closer than one-thousand (1,000) feet from a school property line (universities, community colleges, high schools, junior high schools, elementary schools, nursery schools).

- a. Exceptions: Cannabis establishments shall be a minimum of three-hundred (300) feet from any school or daycare center.

**(3)**

Shall be at a location no closer than one-thousand (1,000) feet from state-licensed child-care centers and/or family day-care facilities property line.

- a. Exceptions: Cannabis establishments shall be a minimum of three-hundred (300) feet from any school or daycare center.

**(4)**

Shall be at a location no closer than one-thousand (1,000) feet from youth-frequented locations, including, but not limited to, religious institutions, public libraries, public parks, bowling alleys, electric-game centers, pool and billiard halls, laser-tag or paint ball facilities.

**(5)**

Shall have a three-hundred and fifty (350) foot setback between any activity conducted by the salvage or scrap facility, including any activity defined in Subsection **H(10)** and the lot line of any residentially zoned lot or lot in residential use regardless of zoning.

[Amended 10-20-2016]

**(6)**

Shall pay a yearly regulated business licensing fee as per Section 5-1, Business Registration or License.

**PASSED, ADOPTED AND APPROVED THIS 19<sup>TH</sup> DAY OF AUGUST 2021.**

VILLAGE OF BOSQUE FARMS

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Russell Walkup, Mayor

(SEAL)

ATTEST:

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Gayle A. Jones, Clerk/Administrator