



**SANDOVAL COUNTY, NEW MEXICO
BOARD OF COUNTY COMMISSIONERS**

Ordinance No. 9-2-21.9

**AN ORDINANCE RELATING TO THE REGULATION OF TOBACCO AND
CANNABIS RETAILERS WITHIN SANDOVAL COUNTY**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
SANDOVAL COUNTY**

Section 1 – Title.

These regulations shall be known as the “Tobacco and Cannabis Retailer Ordinance of Sandoval County New Mexico” and shall be referred to herein as “this Ordinance”.

Section 2 – Purpose and Intent.

The purpose of this Ordinance is to manage the growth of tobacco and cannabis retailers and to reduce the safety hazards and nuisances that tobacco and cannabis retailers may pose to individuals within the unincorporated areas of the County. Further, the intent of this Ordinance is to reduce the ability for children to acquire tobacco or cannabis products illegally by managing the growth of tobacco and cannabis retailers within the unincorporated areas of the County. In addition, these regulations shall be supplemental to the regulations promulgated by the Tobacco Products Act [61-37-1 to 61-37-25 NMSA 1978] concerning the regulation and licensing of tobacco retailers in New Mexico and the regulations promulgated by the Cannabis Regulation Act.

Section 3 - Jurisdiction.

This Ordinance shall apply to all land within Sandoval County that is not within the jurisdiction of an incorporated municipality or Indian reservation or any municipal-county extraterritorial authority, and is not held in trust or ownership by the Federal Government or the State of New Mexico.

Section 4 - Definitions.

As used in this Ordinance, the following definitions apply:

“Cannabis” shall mean:

A. 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

B. does not include:

(1) 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

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

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

"Tobacco Product" shall mean a product made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means, including cigars, cigarettes, chewing tobacco, pipe tobacco, snuff, e-cigarettes or electronic nicotine delivery systems. Tobacco product includes any paraphernalia used to consume tobacco or nicotine.

"Tobacco Retailer" shall mean a person, whether located within or outside of New Mexico, which sells tobacco products at retail to a consumer in New Mexico; provided that the sale is not for resale. A tobacco retailer may include any convenience or grocery store that has at least twenty-five percent of their retail space dedicated to tobacco products.

Section 5 – Separation Requirements for Tobacco and Cannabis Retailers.

A. There shall be a minimum of five hundred (500) feet between each tobacco or cannabis retailer as measured from the shortest direct line measurement between the actual limits of the real property of each establishment.

B. There shall be a three hundred (300) feet separation of a cannabis retailer from a school and/or daycare center as measured from the shortest direct line measurement between the actual limits of the real property of each establishment.

C. This requirement shall not apply to a tobacco retailer or cannabis retailer that was established prior to the effective date of this ordinance.

Section 6 – Hours of operation for Cannabis retailers

A. Cannabis retailers may only sell cannabis products for-offsite consumption between the hours of 7 am and 10 pm local time Monday through Sunday.

Section 7- Variances.

An Applicant may submit to the Planning and Zoning Director or designee (“Director”) for a variance to the requirements as listed in Sections 5 and 6 if there are exceptional physical conditions where the strict application of the requirement would result in a practical difficulty or unnecessary hardship that would deprive the retailer of the reasonable use of their property.

Any request for a variance to the restrictions listed in Section 5 and 6 of this document shall be submitted with filing fee to the Director on a prescribed application form along with any other required documents and justification per Section 18, Variances, of the Sandoval County Comprehensive Zoning Ordinance.

Section 8 - Appeals.

Anyone aggrieved by Planning and Zoning Commission in carrying out the provision of this Ordinance may appeal such decision in accordance with Section 21 of the Sandoval County Comprehensive Zoning Ordinance. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by evidence in the matter.

Section 9 - Penalties.

In addition to other remedies allowed by law, anyone violating any of the provisions of this Ordinance shall upon conviction be subjected to a fine not exceeding \$500.00 or imprisonment for a period not exceeding 30 days after conviction shall be prosecuted and treated as a separate offense.

Section 10 - Severability.

If a provision of this Ordinance is declared illegal, void or unenforceable, the remaining provisions will not be affected and shall remain in full force and effect.

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED, AND PASSED on this 2nd day September 2021.



BOARD OF COUNTY COMMISSIONERS
OF SANDOVAL COUNTY

/s/ DAVID J. HEIL
David J. Heil, Chairman

[Signature]
Michael Meek, Vice Chairman

[Signature]
Katherine A. Bruch, District 1

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Jay C. Brock, District 2

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F. Kenneth Eichwald, District 5

ATTEST:

Anne Brady-Romero
Anne Brady-Romero, County Clerk JCB

APPROVED TO AS FORM:

Michael Eshleman
Michael Eshleman, County Attorney