

**VALENCIA COUNTY, NEW MEXICO**

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# VALENCIA COUNTY

## VALENCIA COUNTY RECREATIONAL AND MEDICAL CANNABIS REGULATIONS

**PASSED:** January 5, 2022

**EFFECTIVE:** February 5, 2022

**VALENCIA COUNTY  
ORDINANCE 22-01**

**AN ORDINANCE AMENDING THE INTERIM COMPREHENSIVE ZONING CHAPTER OF VALENCIA COUNTY; PROVIDING FOR REGULATION OF LOCATION AND CONSUMPTION OF RECREATIONAL AND MEDICAL CANNABIS; PROVIDING A PENALTY; ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE**

**WHEREAS**, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

**WHEREAS**, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

**WHEREAS**, NMSA 1978, Section 26-2C-12 (2021), and NMSA 1978, Sections 24-16-2 (1985) and – 20 (2007) vests the County with the authority 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 density of licenses and operating times consistent with neighborhood uses; and,

**WHEREAS**, the Cannabis Regulation Act, NMSA 1978, Section 26-2C-1 *et seq.*, 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; and,

**WHEREAS**, 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; and,

**WHEREAS**, 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; and,

**WHEREAS**, the smoking of cannabis products may create health risks due to exposure to secondhand smoke and vaporized cannabis concentrates; and,

**WHEREAS**, 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; and



**WHEREAS**, 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; and,

**WHEREAS**, the Valencia County Board of Commissioners finds it necessary to adopt this Ordinance to restrict the time, place, and manner of the sale and consumption of cannabis to protect residents from annoyance and injury resulting from such operations, and to prescribe penalties for violations of this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED by the Valencia County Board of Commissioners as follows:**

**SECTION I  
SHORT TITLE**

1.1 This Ordinance shall be known as the “VALENCIA COUNTY RECREATIONAL AND MEDICAL CANNABIS REGULATIONS”, and shall be referred to herein as “this Ordinance”.

**SECTION II  
AUTHORITY**

2.1 This Ordinance is enacted pursuant to the authority granted to counties to provide for the safety and to preserve the health of the residents of the county as set forth in NMSA 1978 4-37-1 (1975); and pursuant NMSA 1978, Section 26-2C-12 (2021) and NMSA 1978, Sections 24-16-2 (1985) and 24-16-20 (2007).

**SECTION III  
INTERPRETATION, CONFLICT AND WORD CONSTRUCTION**

3.1 **INTERPRETATION & CONFLICT.** The regulations provided herein are held to include the minimum standards necessary to carry out the purposes of this Ordinance. This Ordinance is not intended to interfere with, abrogate or annul any other valid Ordinance. Where the provisions of this Ordinance conflict with other rules, regulations, agreements or other County Ordinances or resolutions, the provisions of this Ordinance shall be controlling. Where this Ordinance imposes greater restrictions than those imposed by other rules, regulations, agreements or other County ordinances or resolutions, the provisions of this Ordinance shall be controlling.

3.2 **WORD CONSTRUCTION.** The words used in the present tense include the future tense; words in the masculine include the feminine; and words in the singular include the plural.