



## **VILLAGE OF CORRALES**

### **ORDINANCE NO. 18-002**

**AN ORDINANCE RELATING TO CANNABIS AND CANNABIS-  
DERIVED PRODUCTS; PROHIBITING THE CULTIVATION, MANUFACTURE  
AND DISTRIBUTION OF CANNABIS AND CANNABIS-DERIVED PRODUCTS  
IN THE A-1, A-2 AND H ZONES OF THE VILLAGE; PROVIDING AN  
EXCEPTION FOR PERSONAL PRODUCTION OF CANNABIS UNDER THE  
LYNN AND ERIN COMPASSIONATE USE ACT.**

**WHEREAS**, the production and use of “medical marijuana,” that is, cannabis used for medical purposes, has become a significant enterprise in New Mexico, with large production facilities being located in many areas, whether agricultural, commercial, industrial or residential; and

**WHEREAS**, the Village Council, the governing body of the Village of Corrales (“Governing Body”), recognizes that agricultural activities such as the growing of crops have been recognized as a permissive use on lands throughout most of the Village; and

**WHEREAS**, the Governing Body finds that facilities for the cultivation, manufacture and distribution of cannabis and cannabis-derived products were not contemplated when the designation of agricultural activities as permissive uses was approved in the Code of Ordinances of the Village, the said cultivation, manufacture and distribution being strictly illegal at that time under both State and federal law; and

**WHEREAS**, the cultivation, manufacture and distribution of cannabis and cannabis-derived products for medical use are now authorized in the State of New Mexico under the Lynn and Erin Compassionate Use Act, Sections 26-2B-1 through 26-2B-7, NMSA 1978, notwithstanding that the cultivation, manufacture, distribution and possession of cannabis remain illegal under the laws of the United States; and

**WHEREAS**, the Governing Body has been reliably informed that growing facilities for the cultivation and harvesting of cannabis for sale to persons other than the grower are commonly large enclosed structures using intensive growing techniques, artificial light, and large ventilation systems with the potential for harmful effects including noise, light pollution, and offensive odors; and

**WHEREAS**, to protect the health, welfare, quality of life and property values of residents and landowners, the Governing Body finds that the cultivation, manufacture, and distribution of cannabis and cannabis-derived products for sale and distribution to persons other than the grower are not desirable uses on lands zoned for traditional agricultural activities and rural residential use in the A-1 and A-2 zones of the Village, nor in the H – Historical zone of the Village; and

**WHEREAS**, the Governing Body finds that the cultivation, processing and possession of cannabis in limited quantities for personal use by qualified patients, under the Lynn and Erin Compassionate Use Act, should nonetheless be permitted in accordance with applicable State law and regulations; and

**WHEREAS**, the Governing Body by this Ordinance does not impose any new regulations or requirements relating to facilities in zones other than the A-1, A-2 and H zones of the Village, leaving any regulation related to cannabis and cannabis-derived products in those areas for future consideration.

**WHEREAS**, the Cultivation, possession and use of marijuana for any purpose remains a serious federal crime under the United States Controlled Substances Act, and, notwithstanding the fact that 21 states and the District of Columbia authorize the production, and use of medical marijuana as described herein, it remains a fact of law, under the supremacy clause of the United States Constitution, that no state may authorize that which the federal laws make a crime.

**NOW, THEREFORE, BE IT ORDAINED** by the Village Council, the governing body of the Village of Corrales, that:

**Section 1. Definitions.**

The defined terms shown below shall be added to Section 18-29 of the Village Code in appropriate alphabetical order.

*Cannabis* means all parts of the plant *Cannabis sativa* or *Cannabis indica*, whether growing or not, and the resin extracted from any part of the plant.

*Cannabis-derived product* means a product, other than cannabis itself, which contains or is derived from cannabis, not including hemp.

*Lynn and Erin Compassionate Use Act* means Sections 26-2B-1 through 26-2B-7, NMSA 1978, as amended and supplemented.

*Personal production of cannabis* means the cultivation and possession of cannabis plants and an adequate supply of usable cannabis by a qualified patient or the primary caregiver of a qualified patient holding a valid personal production license issued by the New Mexico Department of Health pursuant to the Lynn and Erin Compassionate Use Act and the Department of Health regulations adopted thereunder.

*Primary caregiver* means a resident of New Mexico who is at least eighteen (18) years of age and who has been designated by a qualified patient and the patient's practitioner as being necessary to take responsibility for managing the well-being of a qualified patient under the Lynn and Erin Compassionate Use Act.

*Qualified patient* means a resident of New Mexico who has been diagnosed as having a debilitating medical condition and has received a registry identification card from the New

Mexico Department of Health permitting the possession of cannabis for personal medical use under the Lynn and Erin Compassionate Use Act.

**Section 2. Prohibition of cannabis cultivation, manufacture and distribution in the A-1 zone; exception for personal production.** Subsections 18-33(2)(d) and 18-33(2)(g) of the Village Code, designating permissive uses in the A-1 – Agricultural and rural residential zone, are amended to read, respectively, as follows:

- d. Raising crops; provided, however, that the cultivation, intentional growth, manufacture and distribution of cannabis and cannabis-derived products, except for personal production of cannabis, are prohibited in the A-1 zone.

\* \* \*

- g. Sale of livestock and/or crops raised on the premises, but not including the sale or distribution of cannabis or cannabis-derived products.

**Section 3. Prohibition of cannabis cultivation, manufacture and distribution in the A-2 zone; exception for personal production.** Subsections 18-34(2)(d) and 18-34(2)(g) of the Village Code, designating permissive uses in the A-2 – Agricultural and rural residential zone, are amended to read, respectively, as follows:

- d. Raising crops; provided, however, that the cultivation, intentional growth, manufacture and distribution of cannabis and cannabis-derived products, except for personal production of cannabis, are prohibited in the A-2 zone.

\* \* \*

- g. Sale of livestock and/or crops raised on the premises, but not including the sale or distribution of cannabis or cannabis-derived products.

**Section 4. Prohibition of cannabis cultivation, manufacture and distribution in the H zone; exception for personal production.** Subsections 18-35(2)(b) and 18-35(2)(f) of the Village Code, designating permissive uses in the H – Historical area zone, are amended to read, respectively, as follows:

- b. Raising crops; provided, however, that the cultivation, intentional growth, manufacture and distribution of cannabis and cannabis-derived products, except for personal production of cannabis, are prohibited in the H zone.

\* \* \*

- f. Sale of livestock and/or crops raised on the premises; but not including the sale or distribution of cannabis or cannabis-derived products.

**Section 5.** Nothing in this ordinance authorizes any marijuana cultivation or use under any state law or local ordinance, nor shall any building permits or planning and zoning approvals or any other authorization issue for any such activity in this Village, until the federal law no longer makes such activity a federal crime.

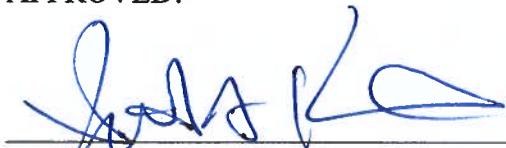
**SEVERABILITY CLAUSE:** Should any section, paragraph, clause or provision of this Ordinance be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. The Governing Body of the Village of Corrales hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, word or phrase thereof irrespective of any one or more sections, subsections, sentences, clauses, words or phrases being declared unconstitutional or otherwise invalid.

**COMPILING CLAUSE:** This Ordinance shall be incorporated in and compiled as a part of the Code of Ordinances of the Village of Corrales, as provided herein.

**EFFECTIVE DATE AND PUBLICATION:** This Ordinance shall become effective and be in full force and effect from and after its passage, publication and posting, according to law.

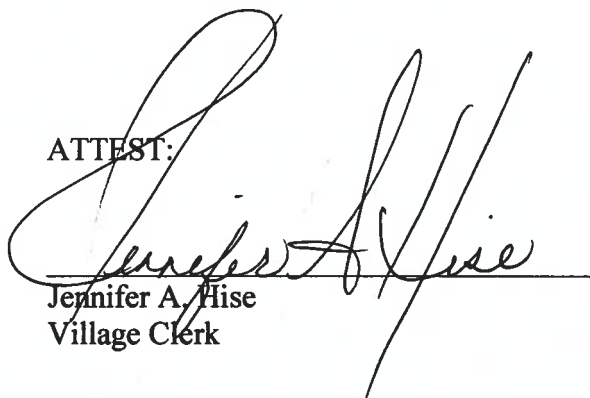
**PASSED, APPROVED AND ADOPTED** by the Governing Body of the Village of Corrales, New Mexico, this 23rd day of January, 2018.

APPROVED:



The Honorable Scott Kominiak  
Mayor

ATTEST:



Jennifer A. Hise  
Village Clerk