



City of Las Vegas

1700 N. Grand Avenue | Las Vegas, NM 87701 | T 505.454.1401 | lasvegasnm.gov

Mayor Louie A. Trujillo

**CITY OF LAS VEGAS
SPECIAL CITY COUNCIL MEETING
August 25, 2023– Friday – 11:00 a.m.
City Chambers
1700 North Grand Avenue
Las Vegas, NM 87701**

AGENDA

*City Council Meetings are
Available via YouTube*

https://www.youtube.com/channel/UCNGDVGRRAL0qVevel5JYeRw?view_as=subscriber

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. PLEDGE OF ALLEGIANCE**
- IV. MOMENT OF SILENCE**
- V. APPROVAL OF AGENDA**
- VI. PUBLIC INPUT (comments limited to topics on current agenda; not to exceed 3 minutes per person and individuals must sign up at least fifteen (15) minutes prior to meeting.)**
- VII. APPROVAL OF MINUTES (August 9, 2023)**
- VIII. BUSINESS ITEMS**
 1. Request approval to use Lodgers Tax Funds to be a Sponsor of the 2023 Albuquerque International Balloon Fiesta (AIBF). The funds will be used to cover expenses required to be a Sponsor of the 2023 AIBF.

Lucas Marquez, Community Development Director, The City of Las will be the Official Sponsor of Fiesta de Los Globitos. Total cost estimate will be \$28,000.00 including cost of sponsorship, lodging/per diem for 9 nights for 2 employees and

David Ulibarri
Councilor Ward 1

Michael Montoya
Councilor Ward 2

Barbara Casey
Councilor Ward 3

David G. Romero
Councilor Ward 4

promotional items for booth. The Lodgers Tax Board held a special meeting on August 15, 2023 and approved the expenditure of Lodgers Tax Funds for promoting and advertising the City of Las Vegas at the AIBF to be held October 7-15, 2023.

2. Request approval to Publish Ordinance 23-08, repealing and replacing Ordinance No. 21-18, Article XIII, Cannabis Zoning.

Lucas Marquez, Community Development Director, This Ordinance is enacted pursuant to Sections 2.02 of the City of Las Vegas Municipal Charter and 450-18 of the City Ordinances, is an exercise of the City of Las Vegas home rule powers and is in the best interests for the safety, welfare and public health of the City's residents and visitors.

IX. EXECUTIVE SESSION

Pursuant to NMSA 1978, Section 10-15-1(D), (I), the Council may convene in a closed session upon motion of any Councilor and majority vote of the Council. Any closed session shall be limited to only those subjects announced prior to the vote to convene a closed session and those subjects properly placed on the agenda, thereby affording the general public notice of the subjects to be discussed. No votes shall be taken in closed session

X. ADJOURN

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office prior to the meeting so that arrangements may be made.

ATTENTION PERSONS ATTENDING COUNCIL MEETING: By entering the City Chambers you consent to photography, audio recording, video recording and its/their use for inclusion on the City of Las Vegas website and to be broadcast on YouTube.

NOTE: A final agenda will be posted 72 hours prior to the meeting. Copies of the Agenda may be obtained from City Hall, Office of the City Clerk, 1700 N. Grand Avenue, Las Vegas, NM 87701 or the City's website at www.lasvegasnm.gov

**MINUTES OF THE CITY OF LAS VEGAS CITY COUNCIL REGULAR MEETING HELD
ON WEDNESDAY, AUGUST 9, 2023 AT 5:30 P.M. IN THE CITY COUNCIL
CHAMBERS.**

MAYOR: Louie A. Trujillo

COUNCILORS: David G. Romero
Barbara Casey
Michael L. Montoya
David Ulibarri

ALSO PRESENT: Leo Maestas, City Manager
Casandra Fresquez, City Clerk
Antonio Salazar, Sergeant at Arms
Legal Counsel, Randy Van Vleck

CALL TO ORDER

Mayor Trujillo called the meeting to order at 5:30 pm.

ROLL CALL

PLEDGE OF ALLEGIANCE

Mayor Trujillo asked Heavenly Rose Archuleta to help lead the Pledge of Allegiance.

MOMENT OF SILENCE

Mayor Trujillo asked to take a moment in prayer and thanksgiving for all the business people in town, for all they do for the economy and for helping Las Vegas. Mayor Trujillo advised he was astonished to learn that a large majority of small businesses are owned by women in the community.

APPROVAL OF AGENDA

City Clerk Fresquez advised she had a recommendation to remove business item 1 from the agenda.

City Manager Maestas advised after further review they need to meet with the applicant to discuss clarifications of his application.

Mayor Trujillo asked when it would be brought back to Council.

City Manager Maestas advised Community Development Director Lucas Marquez would be meeting with Mr. Lopez as early as tomorrow.

Councilor Romero asked Legal Counsel VanVleck how long he's been in the conversation with business item 1.

Legal Counsel Vleck advised a week or two.

Councilor Montoya advised two years ago he had requested to be on the ETZ Commission. Councilor Montoya advised business item 1 is required to go through the County and ETZ Commission for review and recommendation before being brought to Council. Councilor Montoya advised Mayor Trujillo to work on appointing people to the ETZ Commission so there aren't delays with plats, annexations, etc.

Mayor Trujillo advised to send him recommendations for appointments and he would work on it expeditiously.

Councilor Romero advised it was an action item and Mayor Trujillo had appointed members, Councilor Montoya and himself.

Mayor Trujillo advised them that they just need to meet.

Councilor Montoya advised it wasn't confirmed.

City Clerk Fresquez advised she would look into it.

Mayor Trujillo advised if they haven't then they could appoint the Commission at the next meeting.

Councilor Montoya apologized for those who were in the audience that wanted to speak on business item 1.

Councilor Romero made a motion to approve the agenda as amended and to also move Councilors' Reports and City Manager's Report right before Executive Session. Councilor Casey seconded the motion. Mayor Trujillo asked for roll call. Roll Call Vote was taken and reflected the following:

Michael L. Montoya	Yes	David Ulibarri	Yes
David G. Romero	Yes	Barbara Casey	Yes

City Clerk Fresquez advised the motion carried.

PUBLIC INPUT

City Clerk Fresquez advised those who signed up for public input were going to speak on business item 1, which was removed, so they would not be speaking and there was no further public input.

MAYOR'S APPOINTMENTS/REPORTS AND RECOGNITIONS/PROCLAMATIONS

Appointment of Cary Lane to the Airport Committee.

Councilor Romero made a motion to approve the appointment of Cary Lane to the Airport Committee. Councilor Montoya seconded the motion. Mayor Trujillo asked for roll call. Roll Call Vote was taken and reflected the following:

David Ulibarri	Yes	David G. Romero	Yes
Barbara Casey	Yes	Michael L. Montoya	Yes

City Clerk Fresquez advised the motion carried.

Mayor Trujillo expressed his appreciation for those who want to volunteer for committees.

Mayor Trujillo read a Proclamation recognizing Popular Dry Goods.

Councilor Montoya congratulated and thanked the Lujan family for serving the community.

Mayor Trujillo asked Mary Lou Griego to give a presentation regarding a documentary on women owned businesses.

Mayor Trujillo presented Buen Vecino awards to owners of Women Owned Businesses in Las Vegas and read a Proclamation for Women Owned Business Day.

Councilor Montoya thanked Ms. Griego for inspiring young ladies while she was an educator and throughout her life. Councilor Montoya also thanked Celestino Griego for being supportive of Ms. Griego.

APPROVAL OF MINUTES

Councilor Montoya made a motion to approve the minutes from July 19, July 24 and July 27, 2023. Councilor Casey seconded the motion. Mayor Trujillo asked for roll call. Roll Call Vote was taken and reflected the following:

David Ulibarri	Yes	David G. Romero	Yes
Barbara Casey	Yes	Michael L. Montoya	Yes

City Clerk Fresquez advised the motion carried.

BUSINESS ITEMS

1. Request approval of Resolution 23-23, a resolution approving proposed Charter amendments and authorizing placement of ballot questions on the Ballot of the Regular Local Election on November 7, 2023 for the purpose of voting on such amendments.

City Clerk Fresquez advised she attached the questions Mayor and Council requested from the last Council meeting. City Clerk Fresquez advised she did send the questions to Legal Counsel VanVleck, he did review it and made a few

changes. City Clerk Fresquez advised the questions were placed in a resolution and there are six questions. City Clerk Fresquez advised five of the questions were the ones Mayor and Council asked for and they decided to place a sixth question with two options regarding section 2.06 asking “Shall the City of Las Vegas Municipal Charter be amended to delete and repeal section 2.06 in its entirety and establish salaries for elected officials by ordinance” or “Shall the City of Las Vegas Municipal Charter be amended to increase the compensation of the Mayor to \$_____” .

Legal Counsel VanVleck discussed his recommendation for option 2 for Question 6. Legal Counsel VanVleck advised if they choose option 2 then it would take effect after the next Mayoral election.

Councilor Montoya asked if the title and description should be on the questions so voters know what they're voting on.

Legal Counsel VanVleck advised they should clarify what the title and description of the section the questions are referring to from the Charter.

City Clerk Fresquez advised that could be added.

Councilor Montoya advised Question 6, option 2 didn't indicate whether it is a full time Mayor.

Legal Counsel VanVleck advised that it was included in Question 1, he couldn't add the compensation in Question 1 because it would be considered 2 questions, which is not allowed. Legal Counsel Vleck advised they shouldn't establish a pay increase for the Mayor unless the voters approve a full time Mayor.

Discussion took place regarding the meaning of a full time position and whether they need to specify the amount of hours the Mayor would work.

Councilor Romero advised the Charter is a Council/City Manager form of government and the responsibility of the Mayor is limited.

Legal Counsel VanVleck advised that was correct, the majority of work is done by the City Manager and the Mayor is available for mayoral duties, the Mayor is the face/leadership of the municipality, the leader of the Governing Body, and ceremonial aspects. Legal Counsel VanVleck advised they're not putting the Mayor in a position to second guess the City Manager.

Councilor Romero asked if the questions could be rearranged so Question 6 could be moved to Question 2.

Legal Counsel VanVleck advised they would have to make it clear to the voters that Question 6 is contingent upon the passing of Question 1 or have the question reworded to say, "Shall the City of Las Vegas Municipal Charter be amended to increase the compensation of any full time Mayor to a blank number of dollars".

Legal Counsel VanVleck asked if Mayor and Council were okay with the language in Question 4 regarding section 6.01(C) members of city boards and commissions being chosen from San Miguel County.

Mayor Trujillo advised the language was good.

Councilor Romero advised it would help to allow San Miguel County residents to be on boards or commissions because it's hard to find representatives within their wards to fill those vacancies.

Councilor Casey voiced her concerns regarding Question 5 not being clear for the voters and them not knowing what their voting on.

Legal Counsel VanVleck advised they could add a description of what Section 6.07 such as, "Shall you delete and repeal Section 6.07 Campaign and Ethics Board".

Councilor Romero voiced his concerns regarding Question 5: Shall the City of Las Vegas Municipal Charter be amended to delete and repeal 6.07 in its entirety? Councilor Romero advised he didn't want the perception that they're trying to be unethical.

Councilor Montoya advised they were being unethical by not having a board.

Discussion took place regarding moving forward with creating a Campaign and Ethics Board.

Councilor Casey advised they have the NM Governmental Conduct Act and NM Governmental Ethics Act and didn't think they needed another ethics board.

Councilor Romero made a motion to adopt Resolution 23-23, with the recommendations for the Charter Amendments to be presented to the public with the exception of Question 5.

City Clerk Fresquez asked Councilor Romero if his motion included moving Question 6 to Question 2 and choosing option 2 by adding the language "any full time mayor after filling in the compensation amount".

Legal Counsel VanVleck advised citing section 3.02(B) so it's clear that the question passes only if the voters chose to have a full time Mayor and add in the dollar amount for compensation. Legal Counsel VanVleck discussed the possibility of repealing Mayor and Councils salaries and establishing them by ordinance.

Mayor Trujillo suggested adding the language of a minimum salary of \$80,000 to be determined by ordinance.

Legal Counsel VanVleck advised if they added that language then the only elected official whose salary would be determined by ordinance would be the Mayors and the others would be determined by charter.

City Clerk Fresquez advised they could place Question 6 on the ballot for the 2025 election.

Councilor Montoya advised he would support removing Questions 1 and 6.

Due to the lack of a second, the previous motion by Councilor Romero died.

Councilor Montoya made a motion to approve Question 2, Question 3, and Question 4 to be on the ballot. Councilor Ulibarri seconded the motion.

Resolution 23-23 was presented as follows: *Due to the length of the document, a complete copy may be obtained from the City of Las Vegas, City Clerk's Office.*

Mayor Trujillo asked for roll call. Roll Call Vote was taken and reflected the following:

Barbara Casey	No	Michael L. Montoya	Yes
David Ulibarri	Yes	David G. Romero	Yes

City Clerk Fresquez advised the motion carried.

2. Discussion and Ranking of the top 10 Infrastructure Capital Improvement Plan (ICIP) projects.

Mayor Trujillo thanked Consultant Robert Archuleta for all his hard work.

Consultant Robert Archuleta advised that the Infrastructure Capital Improvement Plan would be due by August 18th. Mr. Archuleta advised there were 46 projects last year that were submitted to DFA. Mr. Archuleta advised they need to decide which projects they want to delete or add for this year's ICIP. Mr. Archuleta advised he had the draft resolution and the draft forms City Manager Maestas signed as part of the requirements through DFA.

Mayor Trujillo asked if it was possible to amend the current list to take out all the projects that have already been done.

Mr. Archuleta advised last year he met with each Councilor individually so they could provide him with their priorities and projects. Mr. Archuleta advised this year's legislative session will be 30 days so it will be a quick turn around.

Councilor Romero suggested that Mr. Archuleta remove the projects that were already funded.

Mr. Archuleta advised he would talk with City Manager Maestas to go over the ones they needed to remove.

Mayor Trujillo gave direction to City Manager Maestas to bring the ICIP to Council on a quarterly basis.

Councilor Romero made a motion to approve the ICIP as presented with the notion that Mr. Archuleta removes projects from the list that have already been funded. Councilor Casey seconded the motion. Mayor Trujillo asked for roll call. Roll Call Vote was taken and reflected the following:

David Ulibarri	Yes	Barbara Casey	Yes
Michael L. Montoya	Yes	David G. Romero	Yes

City Clerk Fresquez advised the motion carried.

Discussion took place regarding Capital Outlay projects due to expire June 2024.

Mr. Archuleta advised all infrastructure grants are on a four year timeline and all equipment grants are on a two year timeline.

Councilor Montoya asked when they could start suggesting new projects for the ICIP.

Mr. Archuleta advised as soon as possible.

Discussion took place regarding the process for choosing the top ten priorities.

Mayor Trujillo asked for the first meeting in September to discuss their legislative requests.

3. Request to award RFP #2023-21 (Allen-Bradley Programmable Controller Products & Services) to CAI Automation & Integration and enter into contract.

Councilor Romero made a motion to approve RFP #2023-21 (Allen-Bradley Programmable Controller Products & Services) to CAI Automation & Integration and enter into contract. Councilor Ulibarri seconded the motion. Mayor Trujillo asked for roll call. Roll Call Vote was taken and reflected the following:

Barbara Casey	Yes	David G. Romero	Yes
Michael L. Montoya	Yes	David Ulibarri	Yes

City Clerk Fresquez advised the motion carried.

4. Request approval of Addendum #3 to Contract #3672-2020 with Heath Consultants for gas portable flame survey.

Councilor Romero made a motion to approve RFP #2023-21 (Allen-Bradley Programmable Controller Products & Services) to CAI Automation & Integration and enter into contract.

Councilor Casey asked what a portable flame survey was.

Utilities Director Gilvarry advised the company checks for leaks.

Councilor Casey seconded the motion. Mayor Trujillo asked for roll call. Roll Call Vote was taken and reflected the following:

Michael L. Montoya	Yes	David Ulibarri	Yes
Barbara Casey	Yes	David G. Romero	Yes

City Clerk Fresquez advised the motion carried.

5. Request appointment of Voting Delegate and Alternate for the 2023 Annual Conference in Farmington, NM.

City Clerk Fresquez advised every year New Mexico Municipal League requests they have a voting delegate and alternate during the annual conference. City Clerk Fresquez advised there were two Councilors attending as well as City Manager Maestas, herself and other directors.

Mayor Trujillo asked which Councilors were attending.

City Clerk Fresquez advised Councilor Romero and Councilor Montoya.

Councilor Romero asked if the voting delegates had to be elected officials.

City Clerk Fresquez advised it didn't have to be an elected official although they like for elected officials to have the vote but it could be a director or City Manager.

Councilor Romero made a motion to appoint Councilor Montoya as Voting Delegate and City Manager Maestas as Alternate for the 2023 Annual Conference in Farmington, NM. Councilor Montoya seconded the motion. Mayor Trujillo asked for roll call. Roll Call Vote was taken and reflected the following:

David Ulibarri	Yes	David G. Romero	Yes
Barbara Casey	Yes	Michael L. Montoya	Yes

City Clerk Fresquez advised the motion carried.

COUNCILORS' REPORTS

Councilor Romero voiced his concerns regarding the pay plan and advised he had requested a presentation.

City Manager Maestas advised he's been coordinating with Ms. Arguello in regards to the pay plan and she advised she was in negotiations with three of the Unions. City Manager Maestas advised anything that has been negotiated with any Union throws off the pay plan and makes it obsolete. City Manager Maestas advised they did approve a \$14 minimum raise and that would be their threshold and they would see what they can do above that depending on what happens with the AFSCME contract.

Councilor Romero asked how they were determining raises if there is not a pay plan, because there is a minimum and a maximum and they are not within that. Councilor Romero asked how they are keeping them fiscally sound within that and how they are justifying one employee versus another employee.

City Manager Maestas advised there recently hasn't been many employees that have received increases outside of the four percent increases that are given to employees for certifications. City Manager Maestas advised they've been sitting down with directors to identify that specific list for specific positions and that's the only four percent increase given.

Councilor Romero advised there are some employees who are working extra hard and not getting raises and they need to get back to following the ordinance.

City Manager Maestas advised they would present a pay plan once the AFSCME negotiations are concluded. City Manager Maestas advised they did have a company do a salary study about a year and a half ago based on a \$12 minimum salary.

Councilor Casey advised it was brought to her attention regarding two work-study students from Robertson High School working at the Welcome Center on weekends and there was an altercation between two men at the Visitor Center. Councilor Casey advised they need to make a determination whether the Visitor Center should be kept open on weekends and asked City Manager Maestas to look into it.

City Manager Maestas advised he met with Philip Martinez with the Chamber of Commerce and those employees are employees with the Chamber of Commerce and not the City of Las Vegas. City Manager Maestas advised he required that Mr. Martinez have an adult staff from the Chamber of Commerce working the same time as the student. City Manager Maestas advised they discussed staging law enforcement in the area. City Manager Maestas advised the reason they have the Visitor Center open on weekends was because they have a lot of travelers during that time.

Councilor Casey advised she got calls regarding homeless people camping out at the Lowe's parking lot on Mills and asked that police patrol the area. Councilor Casey asked what the status was regarding the property on Lee and 7th Street and if the City Manager met with Bill Hendrickson and the Realtors.

City Manager Maestas advised he hadn't, and asked if it would be best to invite Mr. Hendrickson to present to Mayor and Council.

Councilor Casey advised she wanted an update on the Animal Care Center in regards to a letter they received about not having enough money for medicine for the animals and if there were windows.

Police Chief Salazar advised they ordered all the electric components for the lights, a fan, and a heater. Police Chief Salazar advised he spoke with Arnold and Ernest about getting everything installed. Police Chief Salazar advised they need electricity in there before they could install the windows. Police Chief Salazar advised they purchased about \$16,000 worth of medication that is stored in a refrigerator.

Councilor Casey asked if the building had been insulated.

Police Chief Salazar advised no, once they get the electrical installed they will insulate it and place a metal type material in the inside.

Councilor Casey asked about the status for Salute to the Troops.

City Manager Maestas advised he and Mr. Chuck Griego met with Mr. Robert Gonzalez regarding contracts for performers, Port a Potties and the sound stage. City Manager Maestas advised they discussed the budget that was increased to \$26,000 a few years ago to support the whole event and the manpower it takes to support the whole event.

Councilor Casey asked if the whole \$26,000 would be utilized.

City Manager Maestas advised yes.

Mayor Trujillo voiced his concerns regarding little done to recognize the veterans in the community during the Salute to the Troops event. Mayor Trujillo advised he will not vote to fund the event next year because it is patronizing to the veterans that not enough is done to salute them or the troops.

City Manager Maestas advised they discussed that with Mr. Gonzalez and they gave him Mr. Ludi's number. City Manager Maestas advised he would get an update from him to make sure he did make contact with Mr. Ludi.

Councilor Casey advised she had spoken with Mr. Ludi before the meeting and they were having a meeting at the VFW. Councilor Casey advised that Mr. Gonzalez had indicated at the first meeting that they were inviting the 720th,

veterans from Taos, Mora and others from other communities. Councilor Casey advised that Mr. Gonzalez said he purchased medals and Mr. Griego advised he had items that were purchased last year by the City and those would be given to the veterans also. Councilor Casey advised that Mr. Ludi would be providing Mr. Griego with a list of veterans to be recognized.

Mayor Trujillo advised it shouldn't be up to Mr. Gonzalez to do this, the City has an event planner and the event planner should be handling it. Mayor Trujillo advised it's not a City event, it's an event for Gonzalo. Mayor Trujillo advised some of the bands that aren't chosen to play at the event are unsatisfied with the event. Mayor Trujillo advised he contacted Mr. Ludi about a month ago and he was appalled that he hadn't been contacted about the event.

Councilor Casey asked for an update regarding the air conditioning at the Senior Center and advised she had asked for at least 2 more fans to cool down the large room. Councilor Casey advised she went today and there was no fan at all and the small fan that was there Monday was no longer there. Councilor Casey advised the building is uncomfortable and is too hot.

City Manager Maestas advised he made a visit to the Senior Center and helped Ms. Wanda Salazar in choosing a temporary swamp cooler that could be placed inside. City Manager Maestas advised she purchased it from Lowe's in Santa Fe. City Manager Maestas advised they do have a contract with Trane Mechanical and Ms. Salazar got a capital appropriation from Aging Long-Term services to redo the whole HVAC system but it has to be engineered.

Councilor Casey advised not only are the Senior Citizens uncomfortable but the employees are too. Councilor Casey asked if there was an update regarding the lease purchase agreement with Mr. Quintana.

City Manager Maestas advised that Mr. Domenici sent a message stating the attorney had reached out to Mr. Domenici asking to change some language on the lease. City Manager Maestas advised that Mayor and Council had already approved that lease so if there needed to be changes it would have to be brought back to Mayor and Council for approval.

Councilor Casey stated that Mr. Quintana called her and advised that he was thinking of proposing instead of the full 421 acre feet of water between now and

December that they get half and next year they get the full amount and in 2025 they get the other half that they didn't get this year.

Mayor Trujillo voiced his opinion regarding the change to the language in the lease agreement and how it wasn't fair that they keep making changes.

Councilor Casey voiced her concerns regarding the lack of communication and having to learn about things going on at the City on the news or in the newspaper. Councilor Casey advised that Mr. Gonzalez had requested a meeting with Councilor Romero and herself but they couldn't make it and he had requested to meet with them the next day and City Manager Maestas advised no. Councilor Casey advised it was not up to City Manager Maestas to decide who she meets with.

City Manager Maestas advised that was not the case and to state the facts.

Councilor Casey advised she was elected to represent the people not only in her ward but in Las Vegas. Councilor Casey advised it was brought to her attention that one particular employee was given a \$5 raise and another employee that the Mayor and herself had requested receive an increase in salary is not getting that. Councilor Casey advised that City Manager Maestas made that decision and after reviewing the duties of the City Manager he did not have the authority to decide on anyone's salary. Councilor Casey advised they voted on the budget and the budget included money for raises and those raises need to happen. Councilor Casey asked that City Manager Maestas review the duties of the City Manager and ordinances so he knows what he can and cannot do so people don't become disconcerted with situations that they leave or file suit against the City.

Councilor Casey advised they need to make sure that directors and employees are aware that they fall under the NM Governmental Conduct Act and are subject to the requirements of the Governmental Ethics Act. Councilor Casey advised they need to make sure contracts and procurement are done by the book and we follow the law.

Councilor Montoya voiced his concerns with Salute to the Troops and advised that Mr. Gonzalez and his significant other had given the event to the City of Las Vegas, so the City of Las Vegas is responsible for the event. Councilor Montoya advised last year he had made a motion to approve \$26,000 for the event and an additional \$2,000 for advertising and police. Councilor Montoya advised the event

was canceled and not postponed so the event for this year should have been brought back for approval. Councilor Montoya advised they should only have City employees scheduling performers and handling contracts. Councilor Montoya advised he met with City Manager Maestas and the auditors and they informed him they were doing risk assessments and would be back in October for auditing purposes.

Councilor Montoya advised that the financial statements would be done by November and if they had any concerns regarding fraud they could report it to the auditors and they hope to have it finalized by mid November to send to the Attorney General's Office. Councilor Montoya advised the Legion Drive Reconstruction project was going great and they got traffic control signs taken care of. Councilor Montoya advised that they met with the schools regarding bus routes on the north of Legion and parent pick up on Mountain View. Councilor Montoya advised that the Chief of Police would ensure that people aren't blocking Mountain View.

Councilor Montoya advised that another subcontractor is working on the drainage and they hope to have the project completed by the end of November. Councilor Montoya advised that City Manager Maestas contacted Google to make sure it doesn't allow for heavy trucks to use Legion Drive since Council passed an ordinance. Councilor Montoya mentioned the Mayor's corner in the Optic would have information to let the public know what's going on in the City. Councilor Montoya thanked City Manager Maestas for tending to issues and advised the City is moving forward. Councilor Montoya asked for a quote regarding the property across from the Police station to see how much it would cost for a parking lot.

Councilor Romero discussed a film/car show event the Chamber of Commerce is having and advised he would like for it to be an agenda item to see if some funding could go towards it. Councilor Romero asked about the Balloon Fiesta.

City Manager Maestas advised they would be having a Lodgers Tax meeting on Tuesday to approve funding for the Balloon Fiesta.

Mayor Trujillo mentioned Sunny 505 helping them with the Balloon Fiesta to produce tourism.

Councilor Romero advised he was disappointed not being invited during the current audit. Councilor Romero advised he felt they should have a special audit.

Mayor Trujillo asked to have it as an agenda item for next week's council meeting to discuss if they want to move forward with a special audit.

Councilor Casey mentioned that City Manager Maestas was very fortunate to have Mary Jean Aragon as his Administrative Assistant because she is wonderful with people, she's smart, she's a hard worker and she learns fast.

CITY MANAGER'S REPORT

City Manager Maestas discussed the following;

- Welcomed new staff to the City of Las Vegas
- Project updates
 - PNM streetlight conversion 60%
 - 140 City owned street lights converted
 - Rodriguez Park Construction of 2 fields 85%
 - Legion Park Road Construction 10%
 - City owned surveillance trailer

City Manager Maestas advised he would send Mayor and Council last year's appropriations that were awarded to the City and advised he had a list of what they could use the opioid settlement monies on.

Councilor Montoya asked where they were at regarding the permit from NMDOT for Hot Springs Blvd.

Utilities Director Gilvarry advised there were changes with the plans and once they were solidified they submitted the actual permit application to Veronica with NMDOT.

Councilor Montoya voiced his concerns regarding the Hot Springs project taking a long time to be completed. Councilor Montoya asked if it would be beneficial if a Councilor and City Manager spoke with the NMDOT engineer.

Utilities Director Gilvarry advised they were able to address all their concerns and NMDOT allowed them to trench which will make the project move quicker and will cause less impact to customers.

City Manager Maestas provided Council with NMTrue videos.

EXECUTIVE SESSION

There was no need for executive session.

ADJOURN

Councilor Casey made a motion to adjourn. Councilor Montoya seconded the motion.

City Clerk Fresquez advised the motion carried.

Meeting adjourned at 8:00 pm.

Mayor Louie A. Trujillo

ATTEST:

Casandra Fresquez, City Clerk



**CITY OF LAS VEGAS SPECIAL
COUNCIL MEETING AGENDA REQUEST FORM**

Meeting Date: August 25, 2023

Date Submitted: 8/22/23

Department: Community Development

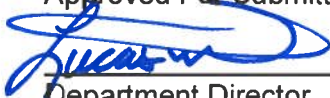
Item/Topic: Request approval to use Lodgers Tax Funds to be a Sponsor of the 2023 Albuquerque International Balloon Fiesta (AIBF). The funds will be used to cover expenses required to be a Sponsor of the 2023 AIBF.

City of Las will be the Official Sponsor of Fiesta de Los Globitos. Total cost estimate will be \$28,000.00 including cost of sponsorship, lodging/per diem for 9 nights for 2 employees and promotional items for booth. The Lodgers Tax Board held a special meeting on August 15, 2023 and approved the expenditure of Lodgers Tax Funds for promoting and advertising the City of Las Vegas at the AIBF held October 7-15, 2023.

Fiscal Impact:
Attachments:

THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.

Approved For Submittal By:



Department Director

Reviewed By:

Finance Director



City Manager

**CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN**

Resolution No. _____

Ordinance No. _____

Contract No. _____

Approved _____

Continued : _____

Referred To: _____

Denied

Other



City of Las Vegas

1700 N. Grand Avenue | Las Vegas, NM 87701 | T 505.454.1401 | lasvegasnm.gov

Mayor Louie A. Trujillo

MEMORANDUM

TO: Lodgers Tax Board
Mayor and Council

FROM: Lucas Marquez, Community Development Director

DATE: August 15, 2023

RE: Request to use Lodgers Tax Funds to Cover Expenses Required to be a Sponsor of the 2023 Albuquerque International Balloon Fiesta

The City is entertaining a contract with the Albuquerque International Balloon Fiesta (AIBF) to be a sponsor for this year's event, being held October 7-15. I have attached a copy of the 2023 Sponsorship Agreement for reference. The City will pay \$16,000 to be the "Official Sponsor of Fiesta de Los Globitos," (remote control balloons). Included in the sponsorship is a 10x10 booth that must be staffed the entire balloon fiesta. In the booth we are allowed to promote the City of Las Vegas with brochures, information about the City and hand out various promotional items with our name on it such as water bottles, mini flashlights, reusable shopping bags. In addition we provided brochures to be placed in the welcome packets that go out to all the RV's, pilots and navigators. All of these things will cost money to produce and must be ordered quickly in order to have everything ready for the event. Below is a rough breakdown of the anticipated expenses.

Breakdown of Anticipated Expenses for AIBF

Cost of Sponsorship	\$16,000.00
Lodging/Per Diem for 9 nights for 2 employees	\$7,000.00
Promotional Items for Booth	\$5,000.00
Total Amount Requested	\$28,000.00

David Ulibarri
Councilor Ward I

Michael Montoya
Councilor Ward 2

Barbara Casey
Councilor Ward 3

David G. Romero
Councilor Ward 4



**2023 Sponsorship Proposal
Fiesta de Los Globitos (Remote Control Balloons)
City of Las Vegas, New Mexico**

AIBF shall provide City of Las Vegas, New Mexico, Sponsor, with the following considerations:

On-Site Promotional

- ***Fiesta de Los Globitos***

The *Fiesta de Los Globitos* shall be “presented by City of Las Vegas, New Mexico.” It is anticipated seventy-five (75) or more remote-control balloons will launch (tethered) on four (4) pre-determined dates, tentatively scheduled for Sunday morning, October 8th, Wednesday morning, October 11th and Friday morning, October 13th and the evening of Saturday, October 14th. Scheduled launch (tethered) is tentatively scheduled for 7:30 am but possibly scheduled to 9:30 am to further operator participation after Mass Ascension.

- ***Product Sampling Booth***

- One (1) 10’ x 10’ tent and will include:
- One (1) 8’ table and two (2) chairs inside each tent;
- Astroturf;
- One (1) ceiling light;
- One (1) 8’ tent banner sign;
- One (1) 120-volt 20-amp outlet per 10’ frontage outlet; however, it may not be located immediately adjacent to the display area. If Sponsor requires additional electrical service, arrangements, at an additional cost, must be made with AIBF no later than September 1, 2023. **Sponsor is responsible for providing its own “outdoor rated” extension cords.**
- One (1) fire extinguisher.

- ***Welcome Pack Insert***

Sponsor has the opportunity to provide a promotional insert or premium to all Balloon Fiesta participants including *RVs, pilots and navigators*. 5,000 inserts must be received by August 18th of each year of the Agreement for inclusion in welcome packs.

Promotional

- Recognition as the exclusive sponsor of the *Fiesta de Los Globitos*. Sponsor to provide logo artwork to AIBF no later than August 11, 2023.
 - Sponsor logo on remote-control balloon basket banners.
 - Sponsor logo on remote-control participant operator t-shirts.
 - Sponsor logo on remote-control trading cards. *Estimated 10,000 pieces.*
 - Sponsor logo on remote-control participant AIBF weekly safety tips (*Contract must be signed by August 11, 2023*).

Online/Print

- Inclusion in all Schedule of Events brochures that remain to be printed after Agreement is signed.
- Inclusion in on-line Schedule of Events on AIBF website and AIBF app.
- Inclusion in Sponsor listings including AIBF website and AIBF app.

Hospitality/Merchandise

- Two (2) Concession Parking passes valid for all sessions.
- Two (2) General “F” Parking passes valid for all sessions.
- Eight (8) Admission passes valid for entire event.
- Four (4) Adult Sponsor Hospitality Area passes valid for entire event.
- Two (2) Official Sponsor jackets.
- Two (2) Official Sponsor baseball-style caps.
- Two (2) Official AIBF Event Programs, if produced.
- Two (2) Official AIBF Calendars.

Investment: \$16,000.00

Offer Expiration: August 11, 2023



**CITY OF LAS VEGAS SPECIAL
COUNCIL MEETING AGENDA REQUEST FORM**

Meeting Date: August 25, 2023

Date Submitted: 8/22/23

Department: Community Development

Item/Topic: Request approval to Publish Ordinance No. 23-08, repealing and replacing Ordinance No. 21-18, Article XIII, Cannabis Zoning. This Ordinance is enacted pursuant to Sections 2.02 of the City of Las Vegas Municipal Charter and 450-18 of the City Ordinances, is an exercise of the City of Las Vegas home rule powers and is in the best interests for the safety, welfare and public health of the City's residents and visitors.

Fiscal Impact:

Attachments: Ordinance No. 23-08 with revisions, final Ordinance and Ordinance No. 21-18

THIS REQUEST FORM MUST BE SUBMITTED TO THE CITY CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON FRIDAY ONE AND A HALF WEEKS PRIOR TO THE CITY COUNCIL MEETING.

Approved For Submittal By:

Reviewed By:



Department Director

Finance Director



City Manager

**CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN**

Resolution No. _____
Ordinance No. _____
Contract No. _____
Approved _____

Continued To: _____
Referred To: _____
Denied _____
Other _____

CITY OF LAS VEGAS, NEW MEXICO

Ordinance No. No. 23-08

AN ORDINANCE TO AMEND the Code of the City of Las Vegas by repealing and replacing Ordinance 21-18, Article XIII, Cannabis Zoning. This Ordinance is enacted pursuant to Sections 2.02 of the City of Las Vegas Municipal Charter and 450-98 of the City Ordinances, is an exercise of the City of Las Vegas home rule powers, and is in the best interests for the safety, welfare and public health of the City's residents and visitors.

WHEREAS, The Cannabis Regulation Act, NMSA 1978 section 26-2C-12.A provides that a local jurisdiction may adopt time, place and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act {Chapter 26, Article B, NMSA} including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses; and

WHEREAS, Density limits of cannabis businesses that routinely interact with the public through sales and dispensing of cannabis products is consistent with the uses and limitations of uses authorized in zoning districts C-2 and C-3; and

WHEREAS, Density limits of cannabis businesses that routinely interact with the public through providing private consumption areas in conjunction with the sale or dispensing of cannabis products is consistent with the uses and limitations of uses authorized in zoning districts C-2 and C-3; and

WHEREAS, Density limits of cannabis establishments are necessary to ensure that cannabis businesses are not unduly concentrated and do not crowd out other commercial uses; and

WHEREAS, Density limitations of cannabis businesses that routinely interact with the public through sales and dispensing of cannabis products and promotes the health, safety and welfare of the citizens of Las Vegas; and

WHEREAS, Density limitations of cannabis businesses that routinely interact with the public through providing private consumption areas in conjunction with the sale or dispensing of cannabis products promotes the health, safety and welfare of the citizens of Las Vegas.

BE IT ORDAINED by the Governing Body of the City of Las Vegas as follows:

Section 1. The Code of the City of Las Vegas is hereby amended to change the general penalty provisions of Section 450-142 to read as follows:

450-142. Cultivation and production of cannabis and cannabis products in residential structures for personal use.

A. Purpose. This Section is intended to apply to any and all personal use or activity involving cannabis and cannabis products in residential structures to the extent authorized by applicable federal, state and local laws. The words in this Section 450-142 shall have the meanings of the words as specifically and expressly defined in NMSA 26-2C-2.

B. Any person, for purposes of this subsection and consistent with New Mexico state law, who is twenty-one (21) years of age or older, and not otherwise prohibited from possessing or being in the vicinity of cannabis or cannabis products, that is cultivating, producing or manufacturing cannabis or cannabis products solely for his or her own personal use, may possess, cultivate, process, manufacture or transport no more than six (6) mature cannabis plants and six (6) immature plants, as defined by the Cannabis Regulation Act, provided that despite a household having multiple residents, no more than twelve (12) mature cannabis plants may be present in any one household. Such possession shall be subject to the following requirements:

1. Such possessing, cultivation, processing, manufacturing or transporting of cannabis plants for personal use must be in full compliance with the applicable provisions of New Mexico law.

2. Such cannabis plants shall be possessed, cultivated, processed, manufactured or transported within the primary residence of the person possessing, cultivating, processing, manufacturing or transporting the cannabis plants for personal use only within the following zones: RA, RR, R-1, R-2 or R-3. No commercial cannabis activity or cannabis consumption area shall occur or be located in, or within 300 feet of, zones RA, RR, R-1, R-2 or R-3.

3. The possession, use, cultivation and processing of such cannabis for personal use must not be observable or perceptible from the exterior of the primary residence, or adjacent or nearby properties, including without limitation: (a) common visual observation, including any form of signage; (b) unusual odors, smells, fragrances or other olfactory stimulus; (c) light pollution, glare or brightness that disturbs others or affects property in the vicinity; or (d) noise from ventilation fans and other noise associated with the possession, use, cultivation or processing of cannabis that disturbs others or affects property in the vicinity.

4. Cannabis plants shall not be cultivated, stored, used, processed or otherwise located in the common area of a planned community or of a multi-family or attached residential structure.

6. Possession, storage, cultivation and processing of cannabis shall meet the requirements of all adopted City building and safety codes, including without limitation electrical systems, building codes and ventilation systems, as the same may be amended from time to time.

7. The use of any flammable or volatile solvent, gas, chemical or other compound in the extraction from cannabis of tetrahydrocannabinol ("THC") or other elements is prohibited.

8. The possession, storage, cultivation and processing of cannabis shall meet the requirements of all City water and wastewater regulations.

12. Cannabis use shall not occur in a private residence if said residence is used commercially to provide child care, adult care or health care or any combination of those activities. Outdoor cultivation or processing of cannabis is prohibited.

13. Any person who desires to cultivate or process cannabis or cannabis related products within a primary residence that they do not own, shall obtain the prior written consent of the property owner before commencing any cultivation or processing of cannabis or cannabis related products on the property.

14. Any City code enforcement officer, San Miguel County Sheriff's law enforcement officer, City law enforcement officer, City Fire Marshal, City Fire Chief or other City designee may enforce the provisions herein or issue citations for violation of this Section 450-142. In addition to any federal, state or other applicable fines or penalties, any person found guilty of a violation of this Section 450-142 shall incur a non-discretionary fine of the sum of \$1,000.00 \$500.00, and each day that a violation occurs shall be a separate offense. The fine imposed by this section shall not be suspended or deferred. The City reserves the right to terminate any City-issued or City-provided licenses, registrations, approvals, utilities or other such matter upon a second violation of City ordinances. Nothing herein shall prevent the City from seeking injunctive relief.

Section 1. The Code of the City of Las Vegas is hereby amended by adding additional definitions to Section 450-143 to read as follows:

450-143. Commercial cannabis activity and cannabis consumption areas in non-residential zones.

The words in this Section 450-143 shall have the meanings of the words as expressly defined in NMSA 26-2C-2, unless expressly defined herein. Any entity, for purposes of this subsection and consistent with New Mexico state law, who is licensed pursuant to the New Mexico Cannabis Regulation Act ("CRA") and not otherwise prohibited from engaging in commercial cannabis activity or a cannabis consumption area, may engage in commercial cannabis activity or a cannabis consumption area subject to the following requirements:

Cannabis consumption area means an area where cannabis products may be served and consumed.

Cannabis retailer means a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

Cannabis manufacturer means a person that:

- (1) manufactures cannabis products;
- (2) packages cannabis products;
- (3) has cannabis products tested by a cannabis testing laboratory; or
- (4) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments.

Cannabis producer means a person that:

- (1) cultivates cannabis plants;
- (2) has unprocessed cannabis products tested by a cannabis testing laboratory;
- (3) transports unprocessed cannabis products only to other cannabis establishments;
- or
- (4) sells cannabis products wholesale;

Commercial cannabis activity means:

- (1) means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and
- (2) 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;

A. Commercial cannabis activity as defined by New Mexico law shall be allowed only in non-residential units or buildings in the following zones: C-2, C-3, M-1 and M-2. No commercial cannabis activity shall occur or be located in a CH or C-1 zones. Outdoor commercial cannabis activity or cannabis consumption area shall be prohibited.

B. No commercial cannabis activity or cannabis consumption area shall occur, or be located, in the common areas of any commercial or multi-family building located within the City limits. Commercial cannabis activity and a cannabis consumption area shall conform to all City ordinances, including without limitation all requirements of building, safety and fire codes. Any entity involved in commercial cannabis activity or a cannabis consumption area, and required to be licensed pursuant to the CRA, shall have an initial code inspections by the City, and shall comply with any and all requirements and conditions of said inspections prior to any commercial cannabis activity or activity regarding a cannabis consumption area, and shall submit to periodic code inspections. Fees for various code inspections:

Fire inspection: \$150.00

Water and wastewater inspection: \$150.00

Building inspection: \$150.00

Security inspection: \$150.00

C. Commercial cannabis activity, or any portion thereof, and a cannabis consumption area shall not be permitted on an exterior portion of a lot, unit, building or structure, and shall maintain a minimum separation distance of at least a 300 foot radius, with the radius being measured from the subject property boundaries, from any school or daycare center that existed at the time the entity was issued a license by the State of New Mexico.

D. Commercial cannabis activity, or any portion thereof, cannabis use or a cannabis consumption area shall not disturb adjacent or nearby properties, including without limitation: (a) any form of signage not approved by the City; (b) unusual odors, smells, fragrances or other olfactory stimulus; (c) light pollution, glare or brightness that disturbs others or affects property in the vicinity; or (d) noise from ventilation fans. While City-approved signage may be located on the exterior of the building or unit, and persons may have a general knowledge that cannabis goods and/or services may be obtained at the location consistent with the CRA.

E. The use of any flammable or volatile solvent, gas, chemical or compound in the extraction of tetrahydrocannabinol ("THC") or other elements from cannabis is prohibited, except as may be permitted by New Mexico state law, and for an entity licensed pursuant to the CRA, and then only after inspection and approval by the City.

F. A daycare center shall mean any place which contributes to or is otherwise engaged in the supervision of minors, the elderly, and those with disabilities. A school shall mean any place which engages in the business, industry or administration of instructing or educating persons of any age, including without limitation public, private, charter and religious education or instruction.

G. For entities subject to the CRA, cannabis and products containing THC shall only be consumed in a cannabis consumption area as approved by CCD, which shall only be allowed within a licensed cannabis consumption area that occupies a standalone building from which smoke and cannabis odor does not infiltrate other indoor workplaces or other indoor places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act. Cannabis producers, cannabis producer microbusinesses, and cannabis manufacturers shall use industry standard techniques to minimize odors, toxic or noxious particulates or matter, such as activated carbon filtration and regular maintenance of HVAC systems. Cannabis producers, cannabis producer microbusinesses, cannabis manufacturers, and cannabis consumption areas shall have an odor control plan approved by the City prior to conducting any cannabis related business.

H. Any and all cannabis consumption areas or cannabis establishments shall limit their hours of operation to the hours between 8:00 a.m. and 11:00p.m. from Monday to Saturday, and between noon and 10:00pm on Sundays, and any entity engaging in commercial cannabis activity or a cannabis consumption area shall have fulltime in-person security to prevent access for those under the age of 21 years and others who are not permitted in a cannabis consumption area or a location conducting commercial cannabis activity. The sales or service of any products containing THC from mobile, portable or temporary units, or drive-through locations is prohibited. Any entity engaged in any activity involving cannabis or products containing THC

shall provide to the City, for the City's approval, a plan for the monitoring and disposal of all waste products.

I. Any ~~entity engaging in commercial cannabis activity~~cannabis retailer or a cannabis consumption area shall maintain a minimum separation distance of at least a 500 foot radius, with the radius being measured from the subject property boundaries, from any existing location engaging in commercial cannabis activity or a cannabis consumption area.

a. This provision does not apply to commercial cannabis activities that do not include the sale of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers to cannabis entities providing an area where cannabis products may be served and consumed.

b. This provision does not apply to the commercial cannabis activities of cannabis manufacturers or to cannabis producers that operate within the parameters of their license under the Cannabis Regulation Act.

J. All cannabis producers and cannabis producer microbusinesses using conditioned soil shall comply with the New Mexico Soil and Water Conservation Act.

K. No alcohol or alcoholic products shall be located, sold, consumed or served, in a cannabis consumption area.

L. Any City code enforcement officer, San Miguel County Sheriff's law enforcement officer, City law enforcement officer, City Fire Marshal, City Fire Chief or other City designee may enforce the provisions herein or issue citations for violation of this Section 450-143. In addition to any federal, state or other applicable fines or penalties, any person found guilty of a violation of this Section ~~450-143 shall incur a non-discretionary fine of the sum of \$1,000.00~~\$500.00, and each day that a violation occurs shall be a separate offense. ~~The fine imposed by this section shall not be suspended or deferred.~~The City reserves the right to terminate any City-issued or City-provided licenses, registrations, approvals, utilities or other such matter upon a second violation of City ordinances. Nothing herein shall prevent the City from seeking injunctive relief.

M. It is the responsibility of the owners and operators of the business involving cannabis to ensure that it is, at all times, operating in a manner compliant with all applicable laws, and any regulations promulgated thereunder, and any specific additional operating procedures or requirements which may be imposed as conditions of approval of any licenses or privileges. Nothing in the City's ordinances shall be construed as authorizing any actions which violate federal law, state law, or local ordinances with respect to the operation of any business involving cannabis.

450-144. Extra-Territorial Zone Application.

The application process for obtaining an application to engage in commercial cannabis activity or a cannabis consumption area within the extra-territorial zone (“ETZ”) shall require the following:

1. San Miguel County (the “County”) shall be the primary point of contact and decision-making for all applicants if utilities are not provided by the City, which includes without limitation non-municipal/non-City sources of water, septic, solid waste provided by the County and electrical services by a provider other than PNM/Avangrid or some other merger, subsidiary or affiliate of said companies. In such circumstances, County cannabis fees shall apply. The City shall take be the primary point of contact and decision-making for all applications if one or more of the utilities are provided by the City, which includes without limitation electrical services by a provider other than PNM/Avangrid or some other merger or affiliate of said companies, City wastewater, City solid waste or City gas. In such situations, City cannabis fees shall apply. An application under this Section shall not be complete unless it includes a mandatory fee of \$150.00, to be paid to the entity which is not serving as the primary point of contact and decision-making, for the resources required to jointly evaluate any ETZ matters.
2. All applicants shall have an initial consultation with the Planning and Zoning Departments of the County and City.
3. If at any time the County or City desires a conditional use permit for the applicant, thus requiring a Planning and Zoning Commission hearing and/or approval by the governing body of the County or City, the Planning and Zoning Departments of the County and City shall be present for any public hearing to address any concerns of the County or City.
4. Approved applicants shall be required to attain both a County and City business license or registration, whichever is applicable. An inspection by the City Fire Department shall be required for any business operating in the ETZ, subject to the City’s Fire Inspection fee.

Section 2. The Code of the City of Las Vegas is hereby amended by repealing and replacing Article I of Section 160 with the following new Article I entitled “Business Registration” to read as follows:

160-1 Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT BUSINESS. A business as described in Section 160.26 through 160.27.

ENGAGING IN BUSINESS. Persons operating, conducting, doing, carrying on, causing to be carried on, or pursuing any business, profession, occupation, trade, pursuit or activity for the purpose of profit and who are required to obtain a New Mexico taxpayer identification number.

PERSON. Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity engaging in a business, profession, occupation, trade, pursuit or commercial activity.

PLACE OF BUSINESS. The premises within the City, whether it be a personal residence, main business location or an outlet, branch or other location thereof, temporary or otherwise, where a person is engaging in business. In the event there is no location, but the business is transacted or the service provided in the location of the buyer, then the general sales area within the City shall be considered a PLACE OF BUSINESS. Unless a construction contractor has at least one permanent location within the city, PLACE OF BUSINESS includes a construction site, located in the City.

SEPARATE BUSINESS. A business located or conducted at the same address as another registered business, whether or not owned by the same person, that is additional to and different from the other registered business. A business will be considered a SEPARATE BUSINESS if it has a different name and it is not so related to the other business as to be a component part of the other business

160-2 Registration fee; Exemptions.

A. No business registration fee shall be imposed on any business which is licensed under Article II of Section 160, or which is exempted pursuant to NMSA § 3-38-1 et seq., as amended.

B. There is imposed on each place of business conducted in the City a business registration fee for each calendar year. The fee of \$35.00 is imposed pursuant to NMSA § 3-38-3 as it now exists or is amended and shall be known as the “business registration fee.” The business registration fee shall be for a full 12-month period, but may not be prorated for business conducted for a portion of the year. Upon issuance, the business registration certificate shall be displayed within the business premises for viewing.

C. There is imposed on each entity engaging in adult business or licensed by the New Mexico Cannabis Control Division (“CCD”) in the City a cannabis/adultbusiness registration fee for each calendar year. The fee of \$350.00 is imposed and shall be known as the “cannabis business registration fee.” The cannabis business registration fee shall be for a full 12-month period, but may not be prorated for business conducted for a portion of the year. Each entity licensed by the CCD, after obtaining said licensure, as a provisional license letter from the CCD shall not be sufficient, shall obtain a City cannabis business license annually per calendar year, including the additional fee for the appropriate license acquired by the CCD for each cannabis establishment location, commercial cannabis activity location or cannabis consumption area within the City limits, which shall be as follows, with the City retaining the right to incorporate additional fees from time to time:

Courier \$60.00 first year, then \$30.00 annually

Testing laboratory \$250.00 first year, then \$100.00 annually

Manufacturer \$250.00 first year, then \$100.00 annually

Producer \$275.00 first year, then \$150.00 annually

Retailer \$300.00 first year, then \$150.00 annually

Research laboratory \$250.00 first year, then \$100.00 annually

Vertically integrated cannabis establishment \$750.00 first year, then \$100.00 annually

Cannabis producer microbusiness \$50.00 for one hundred plants or less first year then \$50.00 annually, or \$100.00 for one hundred and one plants to two hundred fifty plants first year, then \$100.00 annually

Integrated Cannabis microbusiness (activity based) \$250.00 first year, then \$100.00 annually

Cannabis consumption area \$350.00 first year, then \$350.00 annually

Upon issuance, the cannabis business registration shall be displayed within the cannabis business premises for viewing. The applicant for a cannabis business registration, its principals, registered manager, and all employees must be at least twenty-one years of age, meet all requirements under New Mexico law, and hold valid licenses and registrations as required by the State of New Mexico, including all applicable cannabis licenses.

D. The City, as the local business registration, and cannabis business registration, authority, shall have the power and authority to: (i) issue, deny or revoke a City business registration, or cannabis business registration, and renewals of the same, and where necessary, to conduct public hearings related thereto; (ii) impose any sanctions on any business registration or cannabis business registration, including revocation, upon its own authority and initiation, or in response to a complaint by any person for any violation by the licensee after investigation and a public hearing; (iii) adopt forms, fees, and submission requirements for a City business registration and cannabis business registration.

160-3 Application for issuance.

A. Any person proposing to engage in business within the City limits shall apply to the City and pay a business registration fee as stipulated for each place of business within the City limits, prior to engaging in business.

B. Any person filing an application for issuance of a business registration shall include in the application the current taxpayer identification number, issued by the New Mexico Taxation and Revenue Department, and any other lawful information required by the City, including without limitation the disclosure of handling of hazardous, special materials, toxic or radioactive materials, or disclosure of whether the business is engaged in cultivating, processing, producing, manufacturing or sales of cannabis, or goods and services derived from cannabis. For each business engaged in any of the aforementioned matters, along with its application, such business shall submit: (i) a description of the type of products to be cultivated, processed, produced, manufactured or sold; (ii) the equipment to be used, including a list of any solvents, gases, chemicals or other compounds that will be used, kept or created in the course of business, including the location of such materials and how such materials will be stored; (iii) the projected amount of electricity to be used on a monthly basis and a list of equipment which will use such electricity, including the source of all electricity, and a letter from the applicable electric utility stating that the power capacity at the proposed location is sufficient for the intended use; (iv) the projected amount of water to be used on a monthly basis and a description of what the water will be used for, including the source of all water used by the business, and a letter from the applicable water utility stating the water capacity at the proposed location is sufficient for the

intended use; (v) the projected amount of wastewater to be produced on a monthly basis and a description of what solvents, chemicals, compounds or other elements may be included in the wastewater, including how and where the wastewater will be disposed of, a wastewater disposal plan, and a letter from the applicable wastewater utility stating that the wastewater capacity at the proposed location is sufficient for the intended use; (vi) an odor control plan indicating how the applicant intends to comply with the requirements of City and State laws and regulations; (vii) a security plan indicating how the applicant will comply with the requirements of City and State law and regulations; (viii) a site plan to scale and dimensioned, depicting the building footprint, parking areas, vehicle circulation and driveways, pedestrian facilities, lighting, landscaping, loading facilities, freestanding sign locations, snow removal strategy, trash receptacle location and fences; (ix) all cannabis-related businesses that handle or produce water contaminated by cannabis and cannabis products shall submit a water reclamation plan to ensure water within the City is not contaminated; and (x) a letter of authorization with original signatures from the owner(s) of the subject property stating their agreement with the intended use of the property.

C. The City shall not issue a business registration authorizing the conduct of commercial activity to any person or entity whose records reflect any unresolved noncompliance with the business registration provisions or any other City ordinances or regulations. No rights, benefits, permits, approvals or other such items contained in this Chapter 160 shall be transferred, conveyed or assigned to any other entity or location.

160-4 Renewal, revocation, late fee and violation.

A. Before the expiration of the business registration or cannabis/adult business registration, any person or entity with a place of business in the City and subject to this subchapter shall apply to renew the business registration and shall pay an annual fee of \$35.00 to the City for each business registration and \$350.00 for each cannabis/adult business registration.

B. The City shall not issue a renewal for the conduct of commercial activity to any person or entity whose records reflect any unresolved non-compliance with the business registration provisions or any other City ordinances or regulations.

C. Compliance with this Section 160 shall not exempt any business from compliance with all other applicable provisions of the City ordinances and regulation.

D. If any business is conducted in violation of this Article I of Section 160, the City may institute appropriate legal action brought to prevent the conduct of business or to restrain, correct or abate the violation. Any person who has not paid the registration fee for issuance or renewal by the deadline date shall be sent a notice of violation, ordering appearance before the City Clerk within 30 days from date notice is mailed, to show cause why the City should not initiate proceedings under this Article I of Section 160. Upon the City finding evidence of a violation of this Section, the City may set a hearing before the Governing Body to consider revocation or any other appropriate action. At such hearing, the Governing Body will make findings as to the reason(s) for revoking the registration or allowing it to remain in place with conditions. Revocation requires the business to immediately cease any and all commercial activity. The City, in its sole

discretion, may fine a business for violation of this Section, up to \$300.00 for each separate violation, with cumulative fines for each day a violation continues.

E. The Governing Body hereby declares and determines that the licensing and regulation of certain businesses would be conducive to the promotion and protection of the health and general welfare of the City. The fees imposed in this Section upon businesses which are hereby determined to affect the health and general welfare of the City shall bear a reasonable relation to the actual costs of the City in regulating each place of business named herein.

Section 3. The Code of the City of Las Vegas is hereby amended by repealing and replacing Sections 450-7 limited to the definition of “HOME OCCUPATION”, 450-119(D)(3), 450-120(D)(2), 450-121(D)(2), 450-122(D)(1), 450-123(D)(1), 450-124(D)(1), 450-125(C)(2), 450-125(D)(1), 450-126(C)(1), 450-126(D)(1), 450-127(D)(1), 450-128(C)(3), 450-128(D)(3), 450-129(D)(1), 450-130(E), 450-131(C) with the aforementioned portions to read as follows:

450-7 HOME OCCUPATION. Any occupation or business activity that results in a product or service and that is conducted for gainful employment in a dwelling unit by a person residing in that dwelling unit. A home occupation is customarily incidental to the residential use of the dwelling unit. Cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), shall not be a home occupation. The words in this Chapter 450 related to cannabis shall have the meanings of the words as expressly defined in NMSA 26-2C-2, unless expressly defined herein.

450-119(D)(3) Industrial use, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-120(D)(2) Commercial uses, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-121(D)(2) Commercial uses, except for those uses specifically listed as special uses. There shall be no cannabis consumption area, commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-122(D)(1) Commercial uses, except for those uses specifically listed as special uses or allowed under a home occupation. There shall be no cannabis consumption area, commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-123(D)(1) Commercial uses, except for those uses specifically listed as special uses or allowed under a home occupation. There shall be no cannabis consumption area, commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-124(D)(1) Agricultural, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-125(C)(2) Cannabis consumption area or cannabis retailer, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), at least 300 feet from zones RA, RR, R-1, R-2 or R-3.

450-125(D)(1) Agriculture and cannabis producer activity which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-126(C)(1) The cannabis retailer sales which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), at least 300 feet from zones RA, RR, R-1, R-2 or R-3.

450-126(D)(1) Agricultural, and cannabis producer activity which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-127(D)(1) Agricultural, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-128(C)(3) Nursery for plants, and cannabis producer and cannabis manufacturer activities which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), at least 300 feet from zones RA, RR, R-1, R-2 or R-3.

450-128(D)(3) Commercial uses, cannabis consumption area and cannabis retailer sales which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-129(D)(1) Agricultural uses, cannabis consumption area and commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-130(E) Development standards. A planned community shall be considered a separate zoning district in which the development plan, if and when approved, shall establish the restrictions and regulations according to what kind of development shall occur. However, R-1 setback yard development standards shall prevail for all principal permitted uses structures. There shall be no cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), or within 300 feet of zones RA, RR, R-1, R-2 or R-3.

450-131(C) Uses requiring special use permit. Refer to uses permitted by special use in the respective zone. There shall be no cannabis consumption area, cannabis manufacturer or cannabis producer activity, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

Section 4. The Code of the City of Las Vegas is hereby amended by repealing and replacing Sections 290-99(A) and Chapter 301 to read as follows:

290-99 Penalty.

A. If any person violates any of the provisions of this chapter, excluding Section 290-31, the City shall assess a fine for such violation. The mandatory amounts are as follows: first offense \$500, second offense \$750, third and each subsequent offense \$1,000. Each day this chapter is violated shall constitute a separate violation.

301-1 Title and purpose.

This chapter is called and may be cited as the "Nuisances Code Ordinance" for the Municipality of Las Vegas, New Mexico (the "City"). The abatement of public nuisances for the protection of public health, safety and welfare is a matter of local concern. The purpose of this Chapter 301 is to abate public nuisances. The actions provided in Chapter 301 are designed to abate public nuisances by removing the property, both real and personal, from criminal and unsafe use, to make property owners vigilant in preventing public nuisances on, in or using their property and responsible for the lawful use of their property by tenants, guests and occupants, and to deter public nuisances.

301-2 Definitions and rules of construction.

In the construction of the Nuisances Code Ordinance, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section of this chapter, or unless inconsistent with the manifest intent of this chapter:

CITY CODE ENFORCEMENT OFFICER

A City employee who is charged with carrying out and enforcing provisions of the City Code, including but not limited to the provisions of this chapter.

LEGAL OR EQUITABLE INTEREST OR RIGHT OF POSSESSION

Every legal or equitable interest, title, estate or right of possession recognized by law and equity, including without limitations freeholds, life estates, future interests, condominium rights, time-share rights, leaseholds, easements, licenses, liens, deeds of trust, contractual rights, mortgages, security interests, real estate contract, and any right or obligation to manage or act as agent or trustee for any person or entity holding any of the foregoing.

OWNER

Includes any person that holds record title or an interest in or to the property and any person entitled under any agreement to the control or direction of the management or disposition of the building or premises where the violation in question occurs.

PERSON

Any human being or legal entity, whether incorporated or unincorporated.

SHALL

"Shall" is mandatory, and "may" is permissive.

SOLID WASTE

That which is commonly discarded as waste; or which, if discarded on the ground, will create or contribute to an unsanitary, offensive or unsightly condition. Refuse includes, but is not limited to, the following items or classes of items: waste food; wastepaper and paper products; cans, bottles, or other containers; junked household furnishings and equipment; junked parts or bodies of automobiles and other metallic junk or scrap; portions or carcasses of dead animals; and collection of ashes, dirt, yard trimmings or other rubbish.

STREET

Any thoroughfare that can accommodate pedestrian or vehicular traffic, is open to the public and is under the control of the City of Las Vegas.

301-3 Violations and penalties.

Any person or entity found guilty of violating any of the provisions of this chapter shall be fined \$500.00 or imprisoned for a period of not more than 90 days, or both, and each day this chapter is violated shall constitute a separate offense. The aforementioned \$500.00 fine is absolute, and no judge shall exercise discretion of said amount.

301-4 Prohibitions and enforcement.

It shall be unlawful for any person or entity who is the owner, manager, tenant, lessee, occupant or other person having any legal or equitable interest or right of possession in or to any real property, motor vehicle, or other personal property ("Interested Person") to cause, permit, maintain, promote, facilitate, fail to prevent, or allow the creation or maintenance of a public nuisance as described in Section 301-6 on such property. For purposes of this chapter, the owner of property means the person in control of the property, or the owner's representative, an agent or attorney-in-fact or power-of-attorney of the owner. Enforcement of a violation of Section 301-6, and administration, supervision or performance of actions taken pursuant to this chapter shall be through the City's code enforcement division.

301-5 Nuisance declared.

For the health, safety and welfare of the City residents and visitors, it is necessary to prohibit certain activities and matters from the public view, including without limitation the observation of activities involving cannabis and cannabis products by persons under 21 years of age, and the accumulation of junk, trash, used tires, vehicle parts, certain vehicles as described below, solid waste on property, and persons living, squatting or otherwise inhabiting a structure without utilities within the City limits by declaring such matters a nuisance. It shall also be unlawful to be in the possession of or maintain a lot, building or structure that is dangerous, unsafe or not compliant with applicable codes, if said non-compliance poses a credible danger, fire hazard or otherwise creates a public nuisance. The following are hereby declared to be a public nuisance:

(A) Abandoned property. Any deteriorated, wrecked, dismantled or partially dismantled, inoperable and/or abandoned property, or in unusable condition, having no value other than nominal scrap or junk value, which has been left unprotected from the elements outside of a permanent and enclosed structure. Without being so restricted this shall include deteriorated,

wrecked, dismantled or partially dismantled, inoperable, or abandoned motor vehicles, abandoned mobile homes, trailers, boats, machinery, refrigerators, washing machines and other appliances, plumbing fixtures, furniture, building materials and any other similar articles or personal property in such condition. This Section A is not applicable to areas where such activity is within the contemplated purpose of duly licensed businesses and such property is kept in a wholly enclosed garage or structure.

(B) Breeding place for flies, rodents and/or pests. The unhealthful accumulation or stockpiling of manure, garbage, tires, debris or discarded items which is a potential harboring place and breeding area for insects, rodents or other non-domesticated animals.

(C) Burning. The burning of any excrement, chemical or plastic substances, or any liquid or substance in violation of federal or state dischargeable substance statutes or City ordinances on any property. This includes the burning of any tires, rubber products, asphalt shingles, plastic, tar paper or any substance which may cause a black, hydrocarbon, toxic, or noxious plume of smoke.

(D) Combustible materials. Any dangerous accumulation upon any property of combustible refuse matter such as paper, sweepings, rags, grass, dead trees, tree branches, wood shavings, wood, magazines, cardboard and other like materials, including any flammable or volatile solvents that may be used to manufacture cannabis products.

(E) Dead animals. For the owner of a dead animal to permit it to remain undisposed for more than seventy-two (72) hours.

(F) Disposal or dumping. The accumulation of garbage, refuse, waste, trash, rubbish or building materials upon any property outside an approved landfill.

(G) Dangerous buildings. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary or unmaintained condition that it is a menace or danger, or potential danger, to the health of people residing in the vicinity thereof, presents a fire hazard, or presents a danger to adjacent or nearby properties. Any building, property or other structure shall be considered dangerous and not habitable for purposes of this Chapter if said building, property or structure is not connected to, able to use services from, or does not have the infrastructure to provide, the following utilities: potable water from the City or a functioning and producing well; electricity; solid-waste removal; wastewater services from the City or a functioning septic system.

(H) Odors. All disagreeable or obnoxious odors or stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench, including smoke and fires.

(I) Pollution. The pollution of any public well, stream, lake, canal, or body of water by sewage, dead animals, dairy waste, industrial wastes, agricultural wastes, cannabis wastes, or other substances. Polluting water consists of knowingly or unlawfully introducing any object or substance into any body of public water causing it to be offensive or dangerous for human or

animal consumption, or human or animal use. Polluting water constitutes a public nuisance. For the purpose of this section, "body of water" means any public river or tributary thereof, stream, lake, pond, reservoir, acequia, canal, ditch, spring, well or declared or known groundwaters.

(J) Illegal activity. Any building, structure, or other place or location where any activity is conducted, performed or maintained in violation of law.

(K) Any activity related to cannabis at any location where cannabis or cannabis products are cultivated, processed, manufactured, produced, stored, held, weighed, packaged, used, ingested, disposed or wasted shall not create a nuisance or disturbance that can be observed or perceived from any public place or public property, any adjacent or nearby property, or the exterior of the structure in which said activities are taking place, including without limitation, (i) any form of signage not approved by the City, (ii) abnormal or unusual odors, smells, fragrances or other olfactory stimulus, (iii) light pollution, glare or brightness that disturbs or affects other persons or adjacent or nearby property, or (iv) noise or vibration from ventilation fans that disturb or affect another person or another property. The smell or odor of cannabis or cannabis products shall not be capable of being detected by a person with a normal sense of smell from any adjoining or nearby lot, parcel or tract of land, or from any public right of way, public place or public property. Any property where cannabis is cultivated, processed, manufactured, tested, stored, held, sold, weighed, packaged, used, disposed or wasted shall be used, operated and maintained in such a manner in which at no time shall it constitute a nuisance or hazard to the surrounding area, buildings, businesses or neighborhood.

(L) Unsanitary premises. It shall be unlawful for any person to permit or cause to remain in or on such person's premises any solid waste, weeds, trash, rubbish, overgrown plants or trees, vehicle parts, or other condition which is unsanitary, unmaintained or contrary to public health or safety.

(M) Solid waste receptacles. All solid waste receptacles shall be maintained in a clean and sanitary condition by the owner or person using the receptacle, and such receptacles shall be located only in such places as shall be readily accessible for removing and emptying the same, but shall not be placed in such place or position as may constitute a nuisance or obstruction to vehicular or pedestrian traffic.

(N) Definitions. As used in this chapter, the following terms shall have the following meanings:

DISMANTLED OR PARTIALLY DISMANTLED VEHICLE

Any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.

INOPERATIVE OR INOPERABLE MOTOR VEHICLE

Any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.

MOTOR VEHICLE

Any wheeled vehicle which is self-propelled or intended to be self-propelled.

DANGEROUS BUILDING/STRUCTURE

Any building or structure from which the foundation, windows, roofs, walls, vents, floors, and/or doors are susceptible to precipitation, insects, rodents, and vermin entering the building, or causing an infestation that can affect the public comfort, health, peace, welfare, or safety.

UNSAFE BUILDING/STRUCTURE

Any building or structure, or any part of a building or structure, that is in an impaired condition that makes it unsafe to any person, animal or nearby or adjacent property.

301-6 Notice to abate.

Any municipal code enforcement officer, or other person designated by the City, upon observing any violation of this chapter shall issue a notice to an Interested Person. The notice shall describe the violation and shall provide a time limit for remedying the violation by the Interested Person, which shall not be less than two days or more than five days after notice is given by the City. The violation notice may be served personally upon any of the aforementioned persons in this section, by certified mail to the property's address or posted on the property

301-7 Contents of notice; red tag; time limit for compliance.

(A) The first notice will be in the form of a violation notice (red tag) which will be delivered pursuant to 301-7. The red tag will describe the violation and contain a compliance date. If the violation is not fully remedied by the stated deadline, then the City, in its sole discretion, may proceed with abatement of the violation, with the filing of a complaint in a court of law, or may issue a second red tag notice. If the violation is not fully remedied by the deadline stated in the second red tag, then the City may proceed, in the City's sole discretion, with abatement of the violation or with the filing of a complaint in a court of law. The property owner may request in writing from the Community Development Department an extension of the red tag deadline, which may be granted in the City's sole discretion. The City, in its sole discretion, may bypass the issuance of a violation notice and proceed directly to filing a complaint in a court of law.

301-8 Abatement by City.

Upon the failure to timely abate the nuisance pursuant to 301-7, the City may proceed without notice to abate such nuisance itself.

301-9 City's cost declared lien.

Any and all costs incurred by the City in the abatement of a nuisance, or for amounts or fines assessed or arising under this chapter, shall constitute a lien against the property upon which the nuisance existed, which lien, and its contents, shall be recorded in a form that is substantially similar to the lien form required by NMSA 3-36-1. The principal amount of any lien imposed by the City under this Chapter shall bear interest at the rate of twelve percent per annum from the

date of recording of the lien. The City, in its sole discretion, may foreclose on the lien, sell or assign such lien, or take any other action it deems necessary regarding the lien.

301-10 Alternative method of abatement.

A. Except as otherwise provided in this Section, an action filed in court for abatement shall be governed by the New Mexico Rules of Civil Procedure.

B. A civil action to abate a public nuisance may be brought in any court of competent jurisdiction against any person or entity who violates any provision of this Chapter.

C. For cases in the City's Municipal Court, a lien against real estate may be foreclosed in the same manner that mortgages or other liens against real estate are foreclosed with like rights of redemption. A lien against personal property may be foreclosed in the same manner security interests are foreclosed. At the trial of any case foreclosing any lien, the recitals of the lien or other evidence of indebtedness shall be received in evidence as prima facie true. In the foreclosure of any lien created by municipal ordinance or under authority of law, a reasonable attorney's fee shall be granted by the court as part of the reasonable costs of the case.

D. The City may file a criminal complaint for public nuisance in the appropriate court as provided by New Mexico law.

E. Pursuant to NMSA 30-8-8(B), as it may be amended, a civil action to abate a public nuisance may be brought, by verified complaint in the name of the state without cost, by any public officer or private citizen, in the district court of the county where the public nuisance exists, against any person, corporation or association of persons who shall create, perform or maintain a public nuisance.

Section 5. The Code of the City of Las Vegas is hereby amended by repealing and replacing Section 440-18 to read as follows:

440-18 Limitation of use. Resale of water service or the furnishing of water service to others by a customer shall not be permitted except where such resale or furnishing of service is provided for in the applicable schedule and in a written agreement between the customer and the City. City municipal water and wastewater shall not be used for the commercial cultivation, processing, manufacturing or production of cannabis or cannabis products or other commercial agricultural or commercial dairy purposes.

Section 6. The Code of the City of Las Vegas is hereby amended by repealing and replacing Sections 450-83, 450-84 and 450-88 to read as follows:

450-83 Filing fee for variance, conditional use and special use permit. A fee of \$175.00 for each variance or special use application and a fee of \$800.00 for each conditional use application shall be paid to the City of Las Vegas through the Community Development Department upon the filing of such application as provided in this chapter. Paying of the application fee shall not

be construed in any way to be approval of the proposed permit, and no refund of any fee shall be granted under any circumstances. All entities which submitted a medical cannabis application or recreational license application with the New Mexico Cannabis Control Division (“CCD”) for commercial cannabis activity or cannabis consumption area, including without limitation all entities currently and completely licensed for medical use pursuant to the Lynn and Erin Compassionate Use Act, are required to submit a conditional use application to the City, pay the non-refundable application fee and provide a copy of the entity’s approved license from the CCD for the City’s consideration of conditional use for commercial cannabis activity or a cannabis consumption area, with the understanding that submittal of such application to the City shall not in any way guarantee approval. Currently licensed hemp producers in good standing with the New Mexico Environmental Department and the Secretary of State’s Office, and currently licensed medical cannabis producers in good standing with the New Mexico Department of Health and the CCD seeking dual licensure for recreational cannabis production, must also submit a conditional use application to the City, and comply with all City codes.

450-84 Setting hearings. All completed applications for variances, conditional use or special use permits, as provided in this chapter, shall be set by the City Manager or City Manager’s designee for public hearing. The date of the first hearing shall not be less than 15 days or more than 60 days from the date of the filing of a completed application.

450-88 Board to act on variance, special use or conditional use.

A. Not more than 60 days following completion of its investigation and hearings on the application for a variance, conditional use or special use, the Board of Adjustment shall by majority vote: (1) grant or deny the variance or special use permit subject to specified conditions; and (2) adopt written findings which provide all facts relied upon by the Board in rendering its decision, set forth whether the facts meet or fail the requirements of this chapter, and state the reasons for any conditions imposed by the Board; all of which will be provided in the minutes of the Board’s meeting. All special or conditional use applications shall have a site plan attached to the application before the City will review or process the application. Approval of the site plan shall be obtained prior to any development of the property. The site plan at a minimum shall include the following: (i) scale and north arrow; (ii) lot boundaries and easements; (iii) existing and proposed utilities, (iv) existing and proposed rights-of-way; (v) proposed structures with uses, dimensions and setbacks; (vi) proposed ingress, egress, parking and circulation; (vii) landscaping and landscape buffers; (viii) elevations; (ix) adjacent property characteristics; and (x) preliminary drainage plan.

B. Failure of the Board to act on any variance, special use or conditional use application within 60 days from the date of the filing of a completed application shall qualify the applicant to request a hearing before the City’s Governing Body. No rights, benefits, permits, approvals or other such items contained in this Chapter 450 shall be transferred, conveyed or assigned to any other entity or location.

Section 7. The Code of the City of Las Vegas is hereby amended by repealing and replacing Section 192-53 to read as follows:

192-52 Unlawful possession of cannabis; penalties.

Cannabis shall have be defined as provided in the Cannabis Regulation Act. It shall be unlawful to use, possess, cultivate, process, manufacture, sell, give away, or take any other action regarding cannabis that is contrary to law.

Section 8. The Code of the City of Las Vegas is hereby amended by repealing and replacing Section 12-6-12.2(K) to read as follows:

If a person is convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of § 12-6-12.1A, B, C or D, a first offender, at the discretion of a trial court after a presentence investigation, including an inquiry to the Motor Vehicle Division of the Transportation Department concerning the driver's driving record, may receive a deferred sentence on the condition that the driver attend a driver rehabilitation program, also known as the "driving while intoxicated school," approved by the court and the Division and such other rehabilitative services as the court may determine to be necessary; however, imposition of a deferred sentence shall classify the person as a first offender. The Municipal Court shall forward to the Division the abstract of all proceedings and the report of the disposition of the case. For the purpose of this subsection, cannabis, as defined by NMSA 26-2C-2, shall be classified as a drug.

Section 9. The Governing Body finds, determines and declares that this ordinance is promulgated for the health, safety and welfare of the public, and that this ordinance is necessary for the preservation of health, safety and for the protection of the public welfare.

Section 10. Severability. The provisions of this ordinance are declared to be severable, and if any portion of this ordinance, for any reason, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance. The Governing Body specifically finds and declares that it would have passed this ordinance, and each part thereof, regardless of the fact that one or more parts could be declared invalid, severable or unconstitutional.

Section 11. Effective Date. This ordinance shall become effective upon the execution by the Mayor and the affirmative vote of the majority of the Governing Body.

PASSED, ADOPTED and ENACTED this _____ day of August, 2023.

Mayor Louie A. Trujillo
ATTEST:

Reviewed and approved as to legal sufficiency only:

Casandra Fresquez, City Clerk

Randall VanVleck, City Attorney

CITY OF LAS VEGAS, NEW MEXICO

Ordinance No. 23-08

AN ORDINANCE TO AMEND the Code of the City of Las Vegas by repealing and replacing Ordinance 21-18, Article XIII, Cannabis Zoning. This Ordinance is enacted pursuant to Sections 2.02 of the City of Las Vegas Municipal Charter and 450-98 of the City Ordinances, is an exercise of the City of Las Vegas home rule powers, and is in the best interests for the safety, welfare and public health of the City's residents and visitors.

WHEREAS, The Cannabis Regulation Act, NMSA 1978 section 26-2C-12.A provides that a local jurisdiction may adopt time, place and manner rules that do not conflict with the Cannabis Regulation Act or the Dee Johnson Clean Indoor Air Act {Chapter 26, Article B, NMSA} including rules that reasonably limit density of licenses and operating times consistent with neighborhood uses; and

WHEREAS, Density limits of cannabis businesses that routinely interact with the public through sales and dispensing of cannabis products is consistent with the uses and limitations of uses authorized in zoning districts C-2 and C-3; and

WHEREAS, Density limits of cannabis businesses that routinely interact with the public through providing private consumption areas in conjunction with the sale or dispensing of cannabis products is consistent with the uses and limitations of uses authorized in zoning districts C-2 and C-3; and

WHEREAS, Density limits of cannabis establishments are necessary to ensure that cannabis businesses are not unduly concentrated and do not crowd out other commercial uses; and

WHEREAS, Density limitations of cannabis businesses that routinely interact with the public through sales and dispensing of cannabis products and promotes the health, safety and welfare of the citizens of Las Vegas; and

WHEREAS, Density limitations of cannabis businesses that routinely interact with the public through providing private consumption areas in conjunction with the sale or dispensing of cannabis products promotes the health, safety and welfare of the citizens of Las Vegas.

BE IT ORDAINED by the Governing Body of the City of Las Vegas as follows:

Section 1. The Code of the City of Las Vegas is hereby amended to change the general penalty provisions of Section 450-142 to read as follows:

450-142. Cultivation and production of cannabis and cannabis products in residential structures for personal use.

A. Purpose. This Section is intended to apply to any and all personal use or activity involving cannabis and cannabis products in residential structures to the extent authorized by applicable federal, state and local laws. The words in this Section 450-142 shall have the meanings of the words as specifically and expressly defined in NMSA 26-2C-2.

B. Any person, for purposes of this subsection and consistent with New Mexico state law, who is twenty-one (21) years of age or older, and not otherwise prohibited from possessing or being in the vicinity of cannabis or cannabis products, that is cultivating, producing or manufacturing cannabis or cannabis products solely for his or her own personal use, may possess, cultivate, process, manufacture or transport no more than six (6) mature cannabis plants and six (6) immature plants, as defined by the Cannabis Regulation Act, provided that despite a household having multiple residents, no more than twelve (12) mature cannabis plants may be present in any one household. Such possession shall be subject to the following requirements:

1. Such possessing, cultivation, processing, manufacturing or transporting of cannabis plants for personal use must be in full compliance with the applicable provisions of New Mexico law.

2. Such cannabis plants shall be possessed, cultivated, processed, manufactured or transported within the primary residence of the person possessing, cultivating, processing, manufacturing or transporting the cannabis plants for personal use only within the following zones: RA, RR, R-1, R-2 or R-3. No commercial cannabis activity or cannabis consumption area shall occur or be located in, or within 300 feet of, zones RA, RR, R-1, R-2 or R-3.

3. The possession, use, cultivation and processing of such cannabis for personal use must not be observable or perceptible from the exterior of the primary residence, or adjacent or nearby properties, including without limitation: (a) common visual observation, including any form of signage; (b) unusual odors, smells, fragrances or other olfactory stimulus; (c) light pollution, glare or brightness that disturbs others or affects property in the vicinity; or (d) noise from ventilation fans and other noise associated with the possession, use, cultivation or processing of cannabis that disturbs others or affects property in the vicinity.

4. Cannabis plants shall not be cultivated, stored, used, processed or otherwise located in the common area of a planned community or of a multi-family or attached residential structure.

6. Possession, storage, cultivation and processing of cannabis shall meet the requirements of all adopted City building and safety codes, including without limitation electrical systems, building codes and ventilation systems, as the same may be amended from time to time.

7. The use of any flammable or volatile solvent, gas, chemical or other compound in the extraction from cannabis of tetrahydrocannabinol ("THC") or other elements is prohibited.

8. The possession, storage, cultivation and processing of cannabis shall meet the requirements of all City water and wastewater regulations.

12. Cannabis use shall not occur in a private residence if said residence is used commercially to provide child care, adult care or health care or any combination of those activities. Outdoor cultivation or processing of cannabis is prohibited.

13. Any person who desires to cultivate or process cannabis or cannabis related products within a primary residence that they do not own, shall obtain the prior written consent of the property owner before commencing any cultivation or processing of cannabis or cannabis related products on the property.

14. Any City code enforcement officer, San Miguel County Sheriff's law enforcement officer, City law enforcement officer, City Fire Marshal, City Fire Chief or other City designee may enforce the provisions herein or issue citations for violation of this Section 450-142. In addition to any federal, state or other applicable fines or penalties, any person found guilty of a violation of this Section 450-142 shall be fined the sum of \$500.00, and each day that a violation occurs shall be a separate offense. The fine imposed by this section shall not be suspended or deferred. The City reserves the right to terminate any City-issued or City-provided licenses, registrations, approvals, utilities or other such matter upon a second violation of City ordinances. Nothing herein shall prevent the City from seeking injunctive relief.

Section 1. The Code of the City of Las Vegas is hereby amended by adding additional definitions to Section 450-143 to read as follows:

450-143. Commercial cannabis activity and cannabis consumption areas in non-residential zones.

The words in this Section 450-143 shall have the meanings of the words as expressly defined in NMSA 26-2C-2, unless expressly defined herein. Any entity, for purposes of this subsection and consistent with New Mexico state law, who is licensed pursuant to the New Mexico Cannabis Regulation Act ("CRA") and not otherwise prohibited from engaging in commercial cannabis activity or a cannabis consumption area, may engage in commercial cannabis activity or a cannabis consumption area subject to the following requirements:

Cannabis consumption area means an area where cannabis products may be served and consumed.

Cannabis retailer means a person that sells cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers;

Cannabis manufacturer means a person that:

- (1) manufactures cannabis products;
- (2) packages cannabis products;
- (3) has cannabis products tested by a cannabis testing laboratory; or

- (4) purchases, acquires, sells or transports wholesale cannabis products to other cannabis establishments.

Cannabis producer means a person that:

- (1) cultivates cannabis plants;
- (2) has unprocessed cannabis products tested by a cannabis testing laboratory;
- (3) transports unprocessed cannabis products only to other cannabis establishments;
- or
- (4) sells cannabis products wholesale;

Commercial cannabis activity means:

- (1) means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale or consignment of cannabis products; and
- (2) 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;

A. Commercial cannabis activity as defined by New Mexico law shall be allowed only in non-residential units or buildings in the following zones: C-2, C-3, M-1 and M-2. No commercial cannabis activity shall occur or be located in a CH or C-1 zones. Outdoor commercial cannabis activity or cannabis consumption area shall be prohibited.

B. No commercial cannabis activity or cannabis consumption area shall occur, or be located, in the common areas of any commercial or multi-family building located within the City limits. Commercial cannabis activity and a cannabis consumption area shall conform to all City ordinances, including without limitation all requirements of building, safety and fire codes. Any entity involved in commercial cannabis activity or a cannabis consumption area, and required to be licensed pursuant to the CRA, shall have an initial code inspections by the City, and shall comply with any and all requirements and conditions of said inspections prior to any commercial cannabis activity or activity regarding a cannabis consumption area, and shall submit to periodic code inspections. Fees for various code inspections:

Fire inspection: \$150.00

Water and wastewater inspection: \$150.00

Building inspection: \$150.00

Security inspection: \$150.00

C. Commercial cannabis activity, or any portion thereof, and a cannabis consumption area shall not be permitted on an exterior portion of a lot, unit, building or structure, and shall maintain a minimum separation distance of at least a 300 foot radius, with the radius being measured from

the subject property boundaries, from any school or daycare center that existed at the time the entity was issued a license by the State of New Mexico.

D. Commercial cannabis activity, or any portion thereof, cannabis use or a cannabis consumption area shall not disturb adjacent or nearby properties, including without limitation: (a) any form of signage not approved by the City; (b) unusual odors, smells, fragrances or other olfactory stimulus; (c) light pollution, glare or brightness that disturbs others or affects property in the vicinity; or (d) noise from ventilation fans. While City-approved signage may be located on the exterior of the building or unit, and persons may have a general knowledge that cannabis goods and/or services may be obtained at the location consistent with the CRA.

E. The use of any flammable or volatile solvent, gas, chemical or compound in the extraction of tetrahydrocannabinol ("THC") or other elements from cannabis is prohibited, except as may be permitted by New Mexico state law, and for an entity licensed pursuant to the CRA, and then only after inspection and approval by the City.

F. A daycare center shall mean any place which contributes to or is otherwise engaged in the supervision of minors, the elderly, and those with disabilities. A school shall mean any place which engages in the business, industry or administration of instructing or educating persons of any age, including without limitation public, private, charter and religious education or instruction.

G. For entities subject to the CRA, cannabis and products containing THC shall only be consumed in a cannabis consumption area as approved by CCD, which shall only be allowed within a licensed cannabis consumption area that occupies a standalone building from which smoke and cannabis odor does not infiltrate other indoor workplaces or other indoor places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act. Cannabis producers, cannabis producer microbusinesses, and cannabis manufacturers shall use industry standard techniques to minimize odors, toxic or noxious particulates or matter, such as activated carbon filtration and regular maintenance of HVAC systems. Cannabis producers, cannabis producer microbusinesses, cannabis manufacturers, and cannabis consumption areas shall have an odor control plan approved by the City prior to conducting any cannabis related business.

H. Any and all cannabis consumption areas or cannabis establishments shall limit their hours of operation to the hours between 8:00 a.m. and 11:00p.m. from Monday to Saturday, and between noon and 10:00pm on Sundays, and any entity engaging in commercial cannabis activity or a cannabis consumption area shall have fulltime in-person security to prevent access for those under the age of 21 years and others who are not permitted in a cannabis consumption area or a location conducting commercial cannabis activity. The sales or service of any products containing THC from mobile, portable or temporary units, or drive-through locations is prohibited. Any entity engaged in any activity involving cannabis or products containing THC shall provide to the City, for the City's approval, a plan for the monitoring and disposal of all waste products.

I. Any cannabis retailer or a cannabis consumption area shall maintain a minimum separation distance of at least a 500 foot radius, with the radius being measured from the subject property boundaries, from any existing location engaging in commercial cannabis activity or a cannabis consumption area.

a. This provision does not apply to commercial cannabis activities that do not include the sale of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers to cannabis entities providing an area where cannabis products may be served and consumed.

b. This provision does not apply to the commercial cannabis activities of cannabis manufacturers or to cannabis producers that operate within the parameters of their license under the Cannabis Regulation Act.

J. All cannabis producers and cannabis producer microbusinesses using conditioned soil shall comply with the New Mexico Soil and Water Conservation Act.

K. No alcohol or alcoholic products shall be located, sold, consumed or served, in a cannabis consumption area.

L. Any City code enforcement officer, San Miguel County Sheriff's law enforcement officer, City law enforcement officer, City Fire Marshal, City Fire Chief or other City designee may enforce the provisions herein or issue citations for violation of this Section 450-143. In addition to any federal, state or other applicable fines or penalties, any person found guilty of a violation of this Section 450-143 be fined the sum of \$500.00, and each day that a violation occurs shall be a separate offense. The fine imposed by this section shall not be suspended or deferred. The City reserves the right to terminate any City-issued or City-provided licenses, registrations, approvals, utilities or other such matter upon a second violation of City ordinances. Nothing herein shall prevent the City from seeking injunctive relief.

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M. It is the responsibility of the owners and operators of the business involving cannabis to ensure that it is, at all times, operating in a manner compliant with all applicable laws, and any regulations promulgated thereunder, and any specific additional operating procedures or requirements which may be imposed as conditions of approval of any licenses or privileges. Nothing in the City's ordinances shall be construed as authorizing any actions which violate federal law, state law, or local ordinances with respect to the operation of any business involving cannabis.

450-144. Extra-Territorial Zone Application.

The application process for obtaining an application to engage in commercial cannabis activity or a cannabis consumption area within the extra-territorial zone ("ETZ") shall require the following:

1. San Miguel County (the “County”) shall be the primary point of contact and decision-making for all applicants if utilities are not provided by the City, which includes without limitation non-municipal/non-City sources of water, septic, solid waste provided by the County and electrical services by a provider other than PNM/Avangrid or some other merger, subsidiary or affiliate of said companies. In such circumstances, County cannabis fees shall apply. The City shall take be the primary point of contact and decision-making for all applications if one or more of the utilities are provided by the City, which includes without limitation electrical services by a provider other than PNM/Avangrid or some other merger or affiliate of said companies, City wastewater, City solid waste or City gas. In such situations, City cannabis fees shall apply. An application under this Section shall not be complete unless it includes a mandatory fee of \$150.00, to be paid to the entity which is not serving as the primary point of contact and decision-making, for the resources required to jointly evaluate any ETZ matters.

2. All applicants shall have an initial consultation with the Planning and Zoning Departments of the County and City.

3. If at any time the County or City desires a conditional use permit for the applicant, thus requiring a Planning and Zoning Commission hearing and/or approval by the governing body of the County or City, the Planning and Zoning Departments of the County and City shall be present for any public hearing to address any concerns of the County or City.

4. Approved applicants shall be required to attain both a County and City business license or registration, whichever is applicable. An inspection by the City Fire Department shall be required for any business operating in the ETZ, subject to the City’s Fire Inspection fee.

Section 2. The Code of the City of Las Vegas is hereby amended by repealing and replacing Article I of Section 160 with the following new Article I entitled “Business Registration” to read as follows:

160-1 Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT BUSINESS. A business as described in Section 160.26 through 160.27.

ENGAGING IN BUSINESS. Persons operating, conducting, doing, carrying on, causing to be carried on, or pursuing any business, profession, occupation, trade, pursuit or activity for the purpose of profit and who are required to obtain a New Mexico taxpayer identification number.

PERSON. Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity engaging in a business, profession, occupation, trade, pursuit or commercial activity.

PLACE OF BUSINESS. The premises within the City, whether it be a personal residence, main business location or an outlet, branch or other location thereof, temporary or otherwise, where a person is engaging in business. In the event there is no location, but the business is transacted or the service provided in the location of the buyer, then the general sales area within the City shall

be considered a PLACE OF BUSINESS. Unless a construction contractor has at least one permanent location within the city, PLACE OF BUSINESS includes a construction site, located in the City.

SEPARATE BUSINESS. A business located or conducted at the same address as another registered business, whether or not owned by the same person, that is additional to and different from the other registered business. A business will be considered a SEPARATE BUSINESS if it has a different name and it is not so related to the other business as to be a component part of the other business

160-2 Registration fee; Exemptions.

A. No business registration fee shall be imposed on any business which is licensed under Article II of Section 160, or which is exempted pursuant to NMSA § 3-38-1 et seq., as amended.

B. There is imposed on each place of business conducted in the City a business registration fee for each calendar year. The fee of \$35.00 is imposed pursuant to NMSA § 3-38-3 as it now exists or is amended and shall be known as the “business registration fee.” The business registration fee shall be for a full 12-month period, but may not be prorated for business conducted for a portion of the year. Upon issuance, the business registration certificate shall be displayed within the business premises for viewing.

C. There is imposed on each entity engaging in adult business or licensed by the New Mexico Cannabis Control Division (“CCD”) in the City a cannabis/adultbusiness registration fee for each calendar year. The fee of \$350.00 is imposed and shall be known as the “cannabis business registration fee.” The cannabis business registration fee shall be for a full 12-month period, but may not be prorated for business conducted for a portion of the year. Each entity licensed by the CCD, after obtaining said licensure, as a provisional license letter from the CCD shall not be sufficient, shall obtain a City cannabis business license annually per calendar year, including the additional fee for the appropriate license acquired by the CCD for each cannabis establishment location, commercial cannabis activity location or cannabis consumption area within the City limits, which shall be as follows, with the City retaining the right to incorporate additional fees from time to time:

Courier \$60.00 first year, then \$30.00 annually

Testing laboratory \$250.00 first year, then \$100.00 annually

Manufacturer \$250.00 first year, then \$100.00 annually

Producer \$275.00 first year, then \$150.00 annually

Retailer \$300.00 first year, then \$150.00 annually

Research laboratory \$250.00 first year, then \$100.00 annually

Vertically integrated cannabis establishment \$750.00 first year, then \$100.00 annually

Cannabis producer microbusiness \$50.00 for one hundred plants or less first year then \$50.00 annually, or \$100.00 for one hundred and one plants to two hundred fifty plants first year, then \$100.00 annually

Integrated Cannabis microbusiness (activity based) \$250.00 first year, then \$100.00 annually

Cannabis consumption area \$350.00 first year, then \$350.00 annually

Upon issuance, the cannabis business registration shall be displayed within the cannabis business premises for viewing. The applicant for a cannabis business registration, its principals, registered manager, and all employees must be at least twenty-one years of age, meet all requirements under New Mexico law, and hold valid licenses and registrations as required by the State of New Mexico, including all applicable cannabis licenses.

D. The City, as the local business registration, and cannabis business registration, authority, shall have the power and authority to: (i) issue, deny or revoke a City business registration, or cannabis business registration, and renewals of the same, and where necessary, to conduct public hearings related thereto; (ii) impose any sanctions on any business registration or cannabis business registration, including revocation, upon its own authority and initiation, or in response to a complaint by any person for any violation by the licensee after investigation and a public hearing; (iii) adopt forms, fees, and submission requirements for a City business registration and cannabis business registration.

160-3 Application for issuance.

A. Any person proposing to engage in business within the City limits shall apply to the City and pay a business registration fee as stipulated for each place of business within the City limits, prior to engaging in business.

B. Any person filing an application for issuance of a business registration shall include in the application the current taxpayer identification number, issued by the New Mexico Taxation and Revenue Department, and any other lawful information required by the City, including without limitation the disclosure of handling of hazardous, special materials, toxic or radioactive materials, or disclosure of whether the business is engaged in cultivating, processing, producing, manufacturing or sales of cannabis, or goods and services derived from cannabis. For each business engaged in any of the aforementioned matters, along with its application, such business shall submit: (i) a description of the type of products to be cultivated, processed, produced, manufactured or sold; (ii) the equipment to be used, including a list of any solvents, gases, chemicals or other compounds that will be used, kept or created in the course of business, including the location of such materials and how such materials will be stored; (iii) the projected amount of electricity to be used on a monthly basis and a list of equipment which will use such electricity, including the source of all electricity, and a letter from the applicable electric utility stating that the power capacity at the proposed location is sufficient for the intended use; (iv) the projected amount of water to be used on a monthly basis and a description of what the water will be used for, including the source of all water used by the business, and a letter from the applicable water utility stating the water capacity at the proposed location is sufficient for the intended use; (v) the projected amount of wastewater to be produced on a monthly basis and a description of what solvents, chemicals, compounds or other elements may be included in the wastewater, including how and where the wastewater will be disposed of, a wastewater disposal

plan, and a letter from the applicable wastewater utility stating that the wastewater capacity at the proposed location is sufficient for the intended use; (vi) an odor control plan indicating how the applicant intends to comply with the requirements of City and State laws and regulations; (vii) a security plan indicating how the applicant will comply with the requirements of City and State law and regulations; (viii) a site plan to scale and dimensioned, depicting the building footprint, parking areas, vehicle circulation and driveways, pedestrian facilities, lighting, landscaping, loading facilities, freestanding sign locations, snow removal strategy, trash receptacle location and fences; (ix) all cannabis-related businesses that handle or produce water contaminated by cannabis and cannabis products shall submit a water reclamation plan to ensure water within the City is not contaminated; and (x) a letter of authorization with original signatures from the owner(s) of the subject property stating their agreement with the intended use of the property.

C. The City shall not issue a business registration authorizing the conduct of commercial activity to any person or entity whose records reflect any unresolved noncompliance with the business registration provisions or any other City ordinances or regulations. No rights, benefits, permits, approvals or other such items contained in this Chapter 160 shall be transferred, conveyed or assigned to any other entity or location.

160-4 Renewal, revocation, late fee and violation.

A. Before the expiration of the business registration or cannabis/adult business registration, any person or entity with a place of business in the City and subject to this subchapter shall apply to renew the business registration and shall pay an annual fee of \$35.00 to the City for each business registration and \$350.00 for each cannabis/adult business registration.

B. The City shall not issue a renewal for the conduct of commercial activity to any person or entity whose records reflect any unresolved non-compliance with the business registration provisions or any other City ordinances or regulations.

C. Compliance with this Section 160 shall not exempt any business from compliance with all other applicable provisions of the City ordinances and regulation.

D. If any business is conducted in violation of this Article I of Section 160, the City may institute appropriate legal action brought to prevent the conduct of business or to restrain, correct or abate the violation. Any person who has not paid the registration fee for issuance or renewal by the deadline date shall be sent a notice of violation, ordering appearance before the City Clerk within 30 days from date notice is mailed, to show cause why the City should not initiate proceedings under this Article I of Section 160. Upon the City finding evidence of a violation of this Section, the City may set a hearing before the Governing Body to consider revocation or any other appropriate action. At such hearing, the Governing Body will make findings as to the reason(s) for revoking the registration or allowing it to remain in place with conditions. Revocation requires the business to immediate cease any and all commercial activity. The City, in its sole discretion, may fine a business for violation of this Section, up to \$300.00 for each separate violation, with cumulative fines for each day a violation continues.

E. The Governing Body hereby declares and determines that the licensing and regulation of certain businesses would be conducive to the promotion and protection of the health and general welfare of the City. The fees imposed in this Section upon businesses which are hereby determined to affect the health and general welfare of the City shall bear a reasonable relation to the actual costs of the City in regulating each place of business named herein.

Section 3. The Code of the City of Las Vegas is hereby amended by repealing and replacing Sections 450-7 limited to the definition of “HOME OCCUPATION”, 450-119(D)(3), 450-120(D)(2), 450-121(D)(2), 450-122(D)(1), 450-123(D)(1), 450-124(D)(1), 450-125(C)(2), 450-125(D)(1), 450-126(C)(1), 450-126(D)(1), 450-127(D)(1), 450-128(C)(3), 450-128(D)(3), 450-129(D)(1), 450-130(E), 450-131(C) with the aforementioned portions to read as follows:

450-7 HOME OCCUPATION. Any occupation or business activity that results in a product or service and that is conducted for gainful employment in a dwelling unit by a person residing in that dwelling unit. A home occupation is customarily incidental to the residential use of the dwelling unit. Cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), shall not be a home occupation. The words in this Chapter 450 related to cannabis shall have the meanings of the words as expressly defined in NMSA 26-2C-2, unless expressly defined herein.

450-119(D)(3) Industrial use, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-120(D)(2) Commercial uses, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-121(D)(2) Commercial uses, except for those uses specifically listed as special uses. There shall be no cannabis consumption area, commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-122(D)(1) Commercial uses, except for those uses specifically listed as special uses or allowed under a home occupation. There shall be no cannabis consumption area, commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-123(D)(1) Commercial uses, except for those uses specifically listed as special uses or allowed under a home occupation. There shall be no cannabis consumption area, commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-124(D)(1) Agricultural, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-125(C)(2) Cannabis consumption area or cannabis retailer, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), at least 300 feet from zones RA, RR, R-1, R-2 or R-3.

450-125(D)(1) Agriculture and cannabis producer activity which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-126(C)(1) The cannabis retailer sales which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), at least 300 feet from zones RA, RR, R-1, R-2 or R-3.

450-126(D)(1) Agricultural, and cannabis producer activity which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-127(D)(1) Agricultural, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-128(C)(3) Nursery for plants, and cannabis producer and cannabis manufacturer activities which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), at least 300 feet from zones RA, RR, R-1, R-2 or R-3.

450-128(D)(3) Commercial uses, cannabis consumption area and cannabis retailer sales which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-129(D)(1) Agricultural uses, cannabis consumption area and commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-130(E) Development standards. A planned community shall be considered a separate zoning district in which the development plan, if and when approved, shall establish the restrictions and regulations according to what kind of development shall occur. However, R-1 setback yard development standards shall prevail for all principal permitted uses structures. There shall be no cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), or within 300 feet of zones RA, RR, R-1, R-2 or R-3.

450-131(C) Uses requiring special use permit. Refer to uses permitted by special use in the respective zone. There shall be no cannabis consumption area, cannabis manufacturer or cannabis producer activity, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

Section 4. The Code of the City of Las Vegas is hereby amended by repealing and replacing Sections 290-99(A) and Chapter 301 to read as follows:

290-99 Penalty.

A. If any person violates any of the provisions of this chapter, excluding Section 290-31, the City shall assess a fine for such violation. The mandatory amounts are as follows: first offense \$500, second offense \$750, third and each subsequent offense \$1,000. Each day this chapter is violated shall constitute a separate violation.

301-1 Title and purpose.

This chapter is called and may be cited as the "Nuisances Code Ordinance" for the Municipality of Las Vegas, New Mexico (the "City"). The abatement of public nuisances for the protection of public health, safety and welfare is a matter of local concern. The purpose of this Chapter 301 is to abate public nuisances. The actions provided in Chapter 301 are designed to abate public nuisances by removing the property, both real and personal, from criminal and unsafe use, to make property owners vigilant in preventing public nuisances on, in or using their property and responsible for the lawful use of their property by tenants, guests and occupants, and to deter public nuisances.

301-2 Definitions and rules of construction.

In the construction of the Nuisances Code Ordinance, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section of this chapter, or unless inconsistent with the manifest intent of this chapter:

CITY CODE ENFORCEMENT OFFICER

A City employee who is charged with carrying out and enforcing provisions of the City Code, including but not limited to the provisions of this chapter.

LEGAL OR EQUITABLE INTEREST OR RIGHT OF POSSESSION

Every legal or equitable interest, title, estate or right of possession recognized by law and equity, including without limitations freeholds, life estates, future interests, condominium rights, time-share rights, leaseholds, easements, licenses, liens, deeds of trust, contractual rights, mortgages, security interests, real estate contract, and any right or obligation to manage or act as agent or trustee for any person or entity holding any of the foregoing.

OWNER

Includes any person that holds record title or an interest in or to the property and any person entitled under any agreement to the control or direction of the management or disposition of the building or premises where the violation in question occurs.

PERSON

Any human being or legal entity, whether incorporated or unincorporated.

SHALL

"Shall" is mandatory, and "may" is permissive.

SOLID WASTE

That which is commonly discarded as waste; or which, if discarded on the ground, will create or contribute to an unsanitary, offensive or unsightly condition. Refuse includes, but is not limited to, the following items or classes of items: waste food; wastepaper and paper products; cans, bottles, or other containers; junked household furnishings and equipment; junked parts or bodies of automobiles and other metallic junk or scrap;

portions or carcasses of dead animals; and collection of ashes, dirt, yard trimmings or other rubbish.

STREET

Any thoroughfare that can accommodate pedestrian or vehicular traffic, is open to the public and is under the control of the City of Las Vegas.

301-3 Violations and penalties.

Any person or entity found guilty of violating any of the provisions of this chapter shall be fined \$500.00 or imprisoned for a period of not more than 90 days, or both, and each day this chapter is violated shall constitute a separate offense. The aforementioned \$500.00 fine is absolute, and no judge shall exercise discretion of said amount.

301-4 Prohibitions and enforcement.

It shall be unlawful for any person or entity who is the owner, manager, tenant, lessee, occupant or other person having any legal or equitable interest or right of possession in or to any real property, motor vehicle, or other personal property ("Interested Person") to cause, permit, maintain, promote, facilitate, fail to prevent, or allow the creation or maintenance of a public nuisance as described in Section 301-6 on such property. For purposes of this chapter, the owner of property means the person in control of the property, or the owner's representative, an agent or attorney-in-fact or power-of-attorney of the owner. Enforcement of a violation of Section 301-6, and administration, supervision or performance of actions taken pursuant to this chapter shall be through the City's code enforcement division.

301-5 Nuisance declared.

For the health, safety and welfare of the City residents and visitors, it is necessary to prohibit certain activities and matters from the public view, including without limitation the observation of activities involving cannabis and cannabis products by persons under 21 years of age, and the accumulation of junk, trash, used tires, vehicle parts, certain vehicles as described below, solid waste on property, and persons living, squatting or otherwise inhabiting a structure without utilities within the City limits by declaring such matters a nuisance. It shall also be unlawful to be in the possession of or maintain a lot, building or structure that is dangerous, unsafe or not compliant with applicable codes, if said non-compliance poses a credible danger, fire hazard or otherwise creates a public nuisance. The following are hereby declared to be a public nuisance:

(A) Abandoned property. Any deteriorated, wrecked, dismantled or partially dismantled, inoperable and/or abandoned property, or in unusable condition, having no value other than nominal scrap or junk value, which has been left unprotected from the elements outside of a permanent and enclosed structure. Without being so restricted this shall include deteriorated, wrecked, dismantled or partially dismantled, inoperable, or abandoned motor vehicles, abandoned mobile homes, trailers, boats, machinery, refrigerators, washing machines and other appliances, plumbing fixtures, furniture, building materials and any other similar articles or personal property in such condition. This Section A is not applicable to areas where such

activity is within the contemplated purpose of duly licensed businesses and such property is kept in a wholly enclosed garage or structure.

(B) Breeding place for flies, rodents and/or pests. The unhealthful accumulation or stockpiling of manure, garbage, tires, debris or discarded items which is a potential harboring place and breeding area for insects, rodents or other non-domesticated animals.

(C) Burning. The burning of any excrement, chemical or plastic substances, or any liquid or substance in violation of federal or state dischargeable substance statutes or City ordinances on any property. This includes the burning of any tires, rubber products, asphalt shingles, plastic, tar paper or any substance which may cause a black, hydrocarbon, toxic, or noxious plume of smoke.

(D) Combustible materials. Any dangerous accumulation upon any property of combustible refuse matter such as paper, sweepings, rags, grass, dead trees, tree branches, wood shavings, wood, magazines, cardboard and other like materials, including any flammable or volatile solvents that may be used to manufacture cannabis products.

(E) Dead animals. For the owner of a dead animal to permit it to remain undisposed for more than seventy-two (72) hours.

(F) Disposal or dumping. The accumulation of garbage, refuse, waste, trash, rubbish or building materials upon any property outside an approved landfill.

(G) Dangerous buildings. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary or unmaintained condition that it is a menace or danger, or potential danger, to the health of people residing in the vicinity thereof, presents a fire hazard, or presents a danger to adjacent or nearby properties. Any building, property or other structure shall be considered dangerous and not habitable for purposes of this Chapter if said building, property or structure is not connected to, able to use services from, or does not have the infrastructure to provide, the following utilities: potable water from the City or a functioning and producing well; electricity; solid-waste removal; wastewater services from the City or a functioning septic system.

(H) Odors. All disagreeable or obnoxious odors or stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench, including smoke and fires.

(I) Pollution. The pollution of any public well, stream, lake, canal, or body of water by sewage, dead animals, dairy waste, industrial wastes, agricultural wastes, cannabis wastes, or other substances. Polluting water consists of knowingly or unlawfully introducing any object or substance into any body of public water causing it to be offensive or dangerous for human or animal consumption, or human or animal use. Polluting water constitutes a public nuisance. For the purpose of this section, "body of water" means any public river or tributary thereof, stream, lake, pond, reservoir, acequia, canal, ditch, spring, well or declared or known groundwaters.

(J) Illegal activity. Any building, structure, or other place or location where any activity is conducted, performed or maintained in violation of law.

(K) Any activity related to cannabis at any location where cannabis or cannabis products are cultivated, processed, manufactured, produced, stored, held, weighed, packaged, used, ingested, disposed or wasted shall not create a nuisance or disturbance that can be observed or perceived from any public place or public property, any adjacent or nearby property, or the exterior of the structure in which said activities are taking place, including without limitation, (i) any form of signage not approved by the City, (ii) abnormal or unusual odors, smells, fragrances or other olfactory stimulus, (iii) light pollution, glare or brightness that disturbs or affects other persons or adjacent or nearby property, or (iv) noise or vibration from ventilation fans that disturb or affect another person or another property. The smell or odor of cannabis or cannabis products shall not be capable of being detected by a person with a normal sense of smell from any adjoining or nearby lot, parcel or tract of land, or from any public right of way, public place or public property. Any property where cannabis is cultivated, processed, manufactured, tested, stored, held, sold, weighed, packaged, used, disposed or wasted shall be used, operated and maintained in such a manner in which at no time shall it constitute a nuisance or hazard to the surrounding area, buildings, businesses or neighborhood.

(L) Unsanitary premises. It shall be unlawful for any person to permit or cause to remain in or on such person's premises any solid waste, weeds, trash, rubbish, overgrown plants or trees, vehicle parts, or other condition which is unsanitary, unmaintained or contrary to public health or safety.

(M) Solid waste receptacles. All solid waste receptacles shall be maintained in a clean and sanitary condition by the owner or person using the receptacle, and such receptacles shall be located only in such places as shall be readily accessible for removing and emptying the same, but shall not be placed in such place or position as may constitute a nuisance or obstruction to vehicular or pedestrian traffic.

(N) Definitions. As used in this chapter, the following terms shall have the following meanings:

DISMANTLED OR PARTIALLY DISMANTLED VEHICLE

Any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.

INOPERATIVE OR INOPERABLE MOTOR VEHICLE

Any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.

MOTOR VEHICLE

Any wheeled vehicle which is self-propelled or intended to be self-propelled.

DANGEROUS BUILDING/STRUCTURE

Any building or structure from which the foundation, windows, roofs, walls, vents, floors, and/or doors are susceptible to precipitation, insects, rodents, and vermin entering

the building, or causing an infestation that can affect the public comfort, health, peace, welfare, or safety.

UNSAFE BUILDING/STRUCTURE

Any building or structure, or any part of a building or structure, that is in an impaired condition that makes it unsafe to any person, animal or nearby or adjacent property.

301-6 Notice to abate.

Any municipal code enforcement officer, or other person designated by the City, upon observing any violation of this chapter shall issue a notice to an Interested Person. The notice shall describe the violation and shall provide a time limit for remedying the violation by the Interested Person, which shall not be less than two days or more than five days after notice is given by the City. The violation notice may be served personally upon any of the aforementioned persons in this section, by certified mail to the property's address or posted on the property

301-7 Contents of notice; red tag; time limit for compliance.

(A) The first notice will be in the form of a violation notice (red tag) which will be delivered pursuant to 301-7. The red tag will describe the violation and contain a compliance date. If the violation is not fully remedied by the stated deadline, then the City, in its sole discretion, may proceed with abatement of the violation, with the filing of a complaint in a court of law, or may issue a second red tag notice. If the violation is not fully remedied by the deadline stated in the second red tag, then the City may proceed, in the City's sole discretion, with abatement of the violation or with the filing of a complaint in a court of law. The property owner may request in writing from the Community Development Department an extension of the red tag deadline, which may be granted in the City's sole discretion. The City, in its sole discretion, may bypass the issuance of a violation notice and proceed directly to filing a complaint in a court of law.

301-8 Abatement by City.

Upon the failure to timely abate the nuisance pursuant to 301-7, the City may proceed without notice to abate such nuisance itself.

301-9 City's cost declared lien.

Any and all costs incurred by the City in the abatement of a nuisance, or for amounts or fines assessed or arising under this chapter, shall constitute a lien against the property upon which the nuisance existed, which lien, and its contents, shall be recorded in a form that is substantially similar to the lien form required by NMSA 3-36-1. The principal amount of any lien imposed by the City under this Chapter shall bear interest at the rate of twelve percent per annum from the date of recording of the lien. The City, in its sole discretion, may foreclose on the lien, sell or assign such lien, or take any other action it deems necessary regarding the lien.

301-10 Alternative method of abatement.

A. Except as otherwise provided in this Section, an action filed in court for abatement shall be governed by the New Mexico Rules of Civil Procedure.

B. A civil action to abate a public nuisance may be brought in any court of competent jurisdiction against any person or entity who violates any provision of this Chapter.

C. For cases in the City's Municipal Court, a lien against real estate may be foreclosed in the same manner that mortgages or other liens against real estate are foreclosed with like rights of redemption. A lien against personal property may be foreclosed in the same manner security interests are foreclosed. At the trial of any case foreclosing any lien, the recitals of the lien or other evidence of indebtedness shall be received in evidence as prima facie true. In the foreclosure of any lien created by municipal ordinance or under authority of law, a reasonable attorney's fee shall be granted by the court as part of the reasonable costs of the case.

D. The City may file a criminal complaint for public nuisance in the appropriate court as provided by New Mexico law.

E. Pursuant to NMSA 30-8-8(B), as it may be amended, a civil action to abate a public nuisance may be brought, by verified complaint in the name of the state without cost, by any public officer or private citizen, in the district court of the county where the public nuisance exists, against any person, corporation or association of persons who shall create, perform or maintain a public nuisance.

Section 5. The Code of the City of Las Vegas is hereby amended by repealing and replacing Section 440-18 to read as follows:

440-18 Limitation of use. Resale of water service or the furnishing of water service to others by a customer shall not be permitted except where such resale or furnishing of service is provided for in the applicable schedule and in a written agreement between the customer and the City. City municipal water and wastewater shall not be used for the commercial cultivation, processing, manufacturing or production of cannabis or cannabis products or other commercial agricultural or commercial dairy purposes.

Section 6. The Code of the City of Las Vegas is hereby amended by repealing and replacing Sections 450-83, 450-84 and 450-88 to read as follows:

450-83 Filing fee for variance, conditional use and special use permit. A fee of \$175.00 for each variance or special use application and a fee of \$800.00 for each conditional use application shall be paid to the City of Las Vegas through the Community Development Department upon the filing of such application as provided in this chapter. Paying of the application fee shall not be construed in any way to be approval of the proposed permit, and no refund of any fee shall be granted under any circumstances. All entities which submitted a medical cannabis application or recreational license application with the New Mexico Cannabis Control Division ("CCD") for commercial cannabis activity or cannabis consumption area, including without limitation all entities currently and completely licensed for medical use pursuant to the Lynn and Erin

Compassionate Use Act, are required to submit a conditional use application to the City, pay the non-refundable application fee and provide a copy of the entity's approved license from the CCD for the City's consideration of conditional use for commercial cannabis activity or a cannabis consumption area, with the understanding that submittal of such application to the City shall not in any way guarantee approval. Currently licensed hemp producers in good standing with the New Mexico Environmental Department and the Secretary of State's Office, and currently licensed medical cannabis producers in good standing with the New Mexico Department of Health and the CCD seeking dual licensure for recreational cannabis production, must also submit a conditional use application to the City, and comply with all City codes.

450-84 Setting hearings. All completed applications for variances, conditional use or special use permits, as provided in this chapter, shall be set by the City Manager or City Manager's designee for public hearing. The date of the first hearing shall not be less than 15 days or more than 60 days from the date of the filing of a completed application.

450-88 Board to act on variance, special use or conditional use.

A. Not more than 60 days following completion of its investigation and hearings on the application for a variance, conditional use or special use, the Board of Adjustment shall by majority vote: (1) grant or deny the variance or special use permit subject to specified conditions; and (2) adopt written findings which provide all facts relied upon by the Board in rendering its decision, set forth whether the facts meet or fail the requirements of this chapter, and state the reasons for any conditions imposed by the Board; all of which will be provided in the minutes of the Board's meeting. All special or conditional use applications shall have a site plan attached to the application before the City will review or process the application. Approval of the site plan shall be obtained prior to any development of the property. The site plan at a minimum shall include the following: (i) scale and north arrow; (ii) lot boundaries and easements; (iii) existing and proposed utilities, (iv) existing and proposed rights-of-way; (v) proposed structures with uses, dimensions and setbacks; (vi) proposed ingress, egress, parking and circulation; (vii) landscaping and landscape buffers; (viii) elevations; (ix) adjacent property characteristics; and (x) preliminary drainage plan.

B. Failure of the Board to act on any variance, special use or conditional use application within 60 days from the date of the filing of a completed application shall qualify the applicant to request a hearing before the City's Governing Body. No rights, benefits, permits, approvals or other such items contained in this Chapter 450 shall be transferred, conveyed or assigned to any other entity or location.

Section 7. The Code of the City of Las Vegas is hereby amended by repealing and replacing Section 192-53 to read as follows:

192-52 Unlawful possession of cannabis; penalties.

Cannabis shall have be defined as provided in the Cannabis Regulation Act. It shall be unlawful to use, possess, cultivate, process, manufacture, sell, give away, or take any other action regarding cannabis that is contrary to law.

Section 8. The Code of the City of Las Vegas is hereby amended by repealing and replacing Section 12-6-12.2(K) to read as follows:

If a person is convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of § 12-6-12.1A, B, C or D, a first offender, at the discretion of a trial court after a presentence investigation, including an inquiry to the Motor Vehicle Division of the Transportation Department concerning the driver's driving record, may receive a deferred sentence on the condition that the driver attend a driver rehabilitation program, also known as the "driving while intoxicated school," approved by the court and the Division and such other rehabilitative services as the court may determine to be necessary; however, imposition of a deferred sentence shall classify the person as a first offender. The Municipal Court shall forward to the Division the abstract of all proceedings and the report of the disposition of the case. For the purpose of this subsection, cannabis, as defined by NMSA 26-2C-2, shall be classified as a drug.

Section 9. The Governing Body finds, determines and declares that this ordinance is promulgated for the health, safety and welfare of the public, and that this ordinance is necessary for the preservation of health, safety and for the protection of the public welfare.

Section 10. Severability. The provisions of this ordinance are declared to be severable, and if any portion of this ordinance, for any reason, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance. The Governing Body specifically finds and declares that it would have passed this ordinance, and each part thereof, regardless of the fact that one or more parts could be declared invalid, severable or unconstitutional.

Section 11. Effective Date. This ordinance shall become effective upon the execution by the Mayor and the affirmative vote of the majority of the Governing Body.

PASSED, ADOPTED and ENACTED this ____ day of August, 2023.

Mayor Louie A. Trujillo

ATTEST:

Reviewed and approved as to legal sufficiency only:

Casandra Fresquez, City Clerk

Randall VanVleck, City Attorney

CITY OF LAS VEGAS, NEW MEXICO

Ordinance No. 21-18

AN ORDINANCE TO AMEND the Code of the City of Las Vegas by adding new Sections 450-141, 450-142, 450-143 and 450-144 to a newly created Article XII, entitled “Cannabis Zoning”, amending Article I Section 160, and repealing and replacing Sections 450-7 limited to the definition of “HOME OCCUPATION”, 450-119(D)(3), 450-120(D)(2), 450-121(D)(2), 450-122(D)(1), 450-123(D)(1), 450-124(D)(1), 450-125(C)(2), 450-125(D)(1), 450-126(C)(1), 450-126(D)(1), 450-127(D)(1), 450-128(C)(3), 450-128(D)(3), 450-129(D)(1), 450-130(E), 450-131(C), Section 301-6 introduction and subsections (A) and (B), Section 440-18, and Sections 450-83, 450-84, 450-88, 192-53, 12-6-12.2(K), and all other portions included below. This Ordinance is enacted pursuant to Sections 2.02 of the City of Las Vegas Municipal Charter and 450-98 of the City Ordinances, is an exercise of the City of Las Vegas home rule powers, and is in the best interests for the safety, welfare and public health of the City’s residents and visitors.

BE IT ENACTED by the Governing Body of the City of Las Vegas as follows:

Section 1. The Code of the City of Las Vegas is hereby amended by adding thereto a new Article XII entitled “Cannabis Zoning” and Section 450-141, 450-142, and 450-143 to the existing Chapter 450, Zoning, to read as follows:

450-141. Cannabis findings.

The City’s Governing Body makes the following findings with regarding to cannabis:

- A. Cannabis establishments and cannabis consumption areas are uses not currently and specifically enumerated in the City’s planning and zoning ordinances.
- B. 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 others who are not allowed to use or be in the vicinity of cannabis.
- C. 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.
- D. The use of cannabis products creates health risks due to exposure to carcinogens, secondhand smoke or vaporized cannabis concentrates.
- E. Density limits are necessary to ensure that cannabis businesses are not unduly concentrated and do not crowd out other commercial uses.

F. All City ordinances regarding cannabis are intended and designed to protect the public health, safety and welfare from the adverse effects of cannabis in accordance with federal and state law and the City's home-rule powers.

450-142. Cultivation and production of cannabis and cannabis products in residential structures for personal use.

A. Purpose. This Section is intended to apply to any and all personal use or activity involving cannabis and cannabis products in residential structures to the extent authorized by applicable federal, state and local laws. The words in this Section 450-142 shall have the meanings of the words as specifically and expressly defined in NMSA 26-2C-2.

B. Any person, for purposes of this subsection and consistent with New Mexico state law, who is twenty-one (21) years of age or older, and not otherwise prohibited from possessing or being in the vicinity of cannabis or cannabis products, that is cultivating, producing or manufacturing cannabis or cannabis products solely for his or her own personal use, may possess, cultivate, process, manufacture or transport no more than six (6) mature cannabis plants and six (6) immature plants, as defined by the Cannabis Regulation Act, provided that despite a household having multiple residents, no more than twelve (12) mature cannabis plants may be present in any one household. Such possession shall be subject to the following requirements:

1. Such possessing, cultivation, processing, manufacturing or transporting of cannabis plants for personal use must be in full compliance with the applicable provisions of New Mexico law.

2. Such cannabis plants shall be possessed, cultivated, processed, manufactured or transported within the primary residence of the person possessing, cultivating, processing, manufacturing or transporting the cannabis plants for person use only within the following zones: RA, RR, R-1, R-2 or R-3. No commercial cannabis activity or cannabis consumption area shall occur or be located in, or within 300 feet of, zones RA, RR, R-1, R-2 or R-3.

3. The possession, use, cultivation and processing of such cannabis for personal use must not be observable or perceptible from the exterior of the primary residence, or adjacent or nearby properties, including without limitation: (a) common visual observation, including any form of signage; (b) unusual odors, smells, fragrances or other olfactory stimulus; (c) light pollution, glare or brightness that disturbs others or affects property in the vicinity; or (d) noise from ventilation fans and other noise associated with the possession, use, cultivation or processing of cannabis that disturbs others or affects property in the vicinity.

4. Cannabis plants shall not be cultivated, stored, used, processed or otherwise located in the common area of a planned community or of a multi-family or attached residential structure.

6. Possession, storage, cultivation and processing of cannabis shall meet the requirements of all adopted City building and safety codes, including without limitation electrical systems, building codes and ventilation systems, as the same may be amended from time to time.

7. The use of any flammable or volatile solvent, gas, chemical or other compound in the extraction from cannabis of tetrahydrocannabinol (“THC”) or other elements is prohibited.

8. The possession, storage, cultivation and processing of cannabis shall meet the requirements of all City water and wastewater regulations.

12. Cannabis use shall not occur in a private residence if said residence is used commercially to provide child care, adult care or health care or any combination of those activities. Outdoor cultivation or processing of cannabis is prohibited.

13. Any person who desires to cultivate or process cannabis or cannabis related products within a primary residence that they do not own, shall obtain the prior written consent of the property owner before commencing any cultivation or processing of cannabis or cannabis related products on the property.

14. Any City code enforcement officer, San Miguel County Sheriff’s law enforcement officer, City law enforcement officer, City Fire Marshal, City Fire Chief or other City designee may enforce the provisions herein or issue citations for violation of this Section 450-142. In addition to any federal, state or other applicable fines or penalties, any violation of this Section 450-142 shall incur a non-discretionary fine of \$1,000.00, and each day that a violation occurs shall be a separate offense. The City reserves the right to terminate any City-issued or City-provided licenses, registrations, approvals, utilities or other such matter upon a second violation of City ordinances. Nothing herein shall prevent the City from seeking injunctive relief.

450-143. Commercial cannabis activity and cannabis consumption areas in non-residential zones.

The words in this Section 450-143 shall have the meanings of the words as expressly defined in NMSA 26-2C-2, unless expressly defined herein. Any entity, for purposes of this subsection and consistent with New Mexico state law, who is licensed pursuant to the New Mexico Cannabis Regulation Act (“CRA”) and not otherwise prohibited from engaging in commercial cannabis activity or a cannabis consumption area, may engage in commercial cannabis activity or a cannabis consumption area subject to the following requirements:

A. Commercial cannabis activity as defined by New Mexico law shall be allowed only in non-residential units or buildings in the following zones: C-2, C-3, M-1 and M-2. No commercial cannabis activity shall occur or be located in a CH zone. Outdoor commercial cannabis activity or cannabis consumption area shall be prohibited.

B. No commercial cannabis activity or cannabis consumption area shall occur, or be located, in the common areas of any commercial or multi-family building located within the City limits. Commercial cannabis activity and a cannabis consumption area shall conform to all City ordinances, including without limitation all requirements of building, safety and fire codes. Any entity involved in commercial cannabis activity or a cannabis consumption area, and required to be licensed pursuant to the CRA, shall have an initial code inspections by the City, and shall comply with any and all requirements and conditions of said inspections prior to any commercial

cannabis activity or activity regarding a cannabis consumption area, and shall submit to periodic code inspections. Fees for various code inspections:

Fire inspection: \$150.00

Water and wastewater inspection: \$150.00

Building inspection: \$150.00

Security inspection: \$150.00

C. Commercial cannabis activity, or any portion thereof, and a cannabis consumption area shall not be permitted on an exterior portion of a lot, unit, building or structure, and shall maintain a minimum separation distance of at least a 300 foot radius, with the radius being measured from the subject property boundaries, from any school or daycare center that existed at the time the entity was issued a license by the State of New Mexico.

D. Commercial cannabis activity, or any portion thereof, cannabis use or a cannabis consumption area shall not disturb adjacent or nearby properties, including without limitation: (a) any form of signage not approved by the City; (b) unusual odors, smells, fragrances or other olfactory stimulus; (c) light pollution, glare or brightness that disturbs others or affects property in the vicinity; or (d) noise from ventilation fans. While City-approved signage may be located on the exterior of the building or unit, and persons may have a general knowledge that cannabis goods and/or services may be obtained at the location consistent with the CRA.

E. The use of any flammable or volatile solvent, gas, chemical or compound in the extraction of tetrahydrocannabinol (“THC”) or other elements from cannabis is prohibited, except as may be permitted by New Mexico state law, and for an entity licensed pursuant to the CRA, and then only after inspection and approval by the City.

F. A daycare center shall mean any place which contributes to or is otherwise engaged in the supervision of minors, the elderly, and those with disabilities. A school shall mean any place which engages in the business, industry or administration of instructing or educating persons of any age, including without limitation public, private, charter and religious education or instruction.

G. For entities subject to the CRA, cannabis and products containing THC shall only be consumed in a cannabis consumption area as approved by CCD, which shall only be allowed within a licensed cannabis consumption area that occupies a standalone building from which smoke and cannabis odor does not infiltrate other indoor workplaces or other indoor places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act. Cannabis producers, cannabis producer microbusinesses, and cannabis manufacturers shall use industry standard techniques to minimize odors, toxic or noxious particulates or matter, such as activated carbon filtration and regular maintenance of HVAC systems. Cannabis producers, cannabis producer microbusinesses, cannabis manufacturers, and cannabis consumption areas shall have an odor control plan approved by the City prior to conducting any cannabis related business.

H. Any and all cannabis consumption areas or cannabis establishments shall limit their hours of operation to the hours between 8:00 a.m. and 11:00p.m. from Monday to Saturday, and between noon and 10:00pm on Sundays, and any entity engaging in commercial cannabis activity or a cannabis consumption area shall have fulltime in-person security to prevent access for those under the age of 21 years and others who are not permitted in a cannabis consumption area or a location conducting commercial cannabis activity. The sales or service of any products containing THC from mobile, portable or temporary units, or drive-through locations is prohibited. Any entity engaged in any activity involving cannabis or products containing THC shall provide to the City, for the City's approval, a plan for the monitoring and disposal of all waste products.

I. Any entity engaging in commercial cannabis activity or a cannabis consumption area shall maintain a minimum separation distance of at least a 500 foot radius, with the radius being measured from the subject property boundaries, from any existing location engaging in commercial cannabis activity or a cannabis consumption area.

J. All cannabis producers and cannabis producer microbusinesses using conditioned soil shall comply with the New Mexico Soil and Water Conservation Act.

K. No alcohol or alcoholic products shall be located, sold, consumed or served, in a cannabis consumption area.

L. Any City code enforcement officer, San Miguel County Sheriff's law enforcement officer, City law enforcement officer, City Fire Marshal, City Fire Chief or other City designee may enforce the provisions herein or issue citations for violation of this Section 450-142. In addition to any federal, state or other applicable fines or penalties, any violation of this Section 450-142 shall incur a non-discretionary fine of \$1,000.00, and each day that a violation occurs shall be a separate offense. The City reserves the right to terminate any City-issued or City-provided licenses, registrations, approvals, utilities or other such matter upon a second violation of City ordinances. Nothing herein shall prevent the City from seeking injunctive relief.

M. It is the responsibility of the owners and operators of the business involving cannabis to ensure that it is, at all times, operating in a manner compliant with all applicable laws, and any regulations promulgated thereunder, and any specific additional operating procedures or requirements which may be imposed as conditions of approval of any licenses or privileges. Nothing in the City's ordinances shall be construed as authorizing any actions which violate federal law, state law, or local ordinances with respect to the operation of any business involving cannabis.

450-144. Extra-Territorial Zone Application.

The application process for obtaining an application to engage in commercial cannabis activity or a cannabis consumption area within the extra-territorial zone ("ETZ") shall require the following:

1. San Miguel County (the “County”) shall be the primary point of contact and decision-making for all applicants if utilities are not provided by the City, which includes without limitation non-municipal/non-City sources of water, septic, solid waste provided by the County and electrical services by a provider other than PNM/Avangrid or some other merger, subsidiary or affiliate of said companies. In such circumstances, County cannabis fees shall apply. The City shall take be the primary point of contact and decision-making for all applications if one or more of the utilities are provided by the City, which includes without limitation electrical services by a provider other than PNM/Avangrid or some other merger or affiliate of said companies, City wastewater, City solid waste or City gas. In such situations, City cannabis fees shall apply. An application under this Section shall not be complete unless it includes a mandatory fee of \$150.00, to be paid to the entity which is not serving as the primary point of contact and decision-making, for the resources required to jointly evaluate any ETZ matters.

2. All applicants shall have an initial consultation with the Planning and Zoning Departments of the County and City.

3. If at any time the County or City desires a conditional use permit for the applicant, thus requiring a Planning and Zoning Commission hearing and/or approval by the governing body of the County or City, the Planning and Zoning Departments of the County and City shall be present for any public hearing to address any concerns of the County or City.

4. Approved applicants shall be required to attain both a County and City business license or registration, whichever is applicable. An inspection by the City Fire Department shall be required for any business operating in the ETZ, subject to the City’s Fire Inspection fee.

Section 2. The Code of the City of Las Vegas is hereby amended by repealing and replacing Article I of Section 160 with the following new Article I entitled “Business Registration” to read as follows:

160-1 Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT BUSINESS. A business as described in Section 160.26 through 160.27.

ENGAGING IN BUSINESS. Persons operating, conducting, doing, carrying on, causing to be carried on, or pursuing any business, profession, occupation, trade, pursuit or activity for the purpose of profit and who are required to obtain a New Mexico taxpayer identification number.

PERSON. Any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity engaging in a business, profession, occupation, trade, pursuit or commercial activity.

PLACE OF BUSINESS. The premises within the City, whether it be a personal residence, main business location or an outlet, branch or other location thereof, temporary or otherwise, where a person is engaging in business. In the event there is no location, but the business is transacted or the service provided in the location of the buyer, then the general sales area within the City shall

be considered a PLACE OF BUSINESS. Unless a construction contractor has at least one permanent location within the city, PLACE OF BUSINESS includes a construction site, located in the City.

SEPARATE BUSINESS. A business located or conducted at the same address as another registered business, whether or not owned by the same person, that is additional to and different from the other registered business. A business will be considered a SEPARATE BUSINESS if it has a different name and it is not so related to the other business as to be a component part of the other business

160-2 Registration fee; Exemptions.

A. No business registration fee shall be imposed on any business which is licensed under Article II of Section 160, or which is exempted pursuant to NMSA § 3-38-1 et seq., as amended.

B. There is imposed on each place of business conducted in the City a business registration fee for each calendar year. The fee of \$35.00 is imposed pursuant to NMSA § 3-38-3 as it now exists or is amended and shall be known as the “business registration fee.” The business registration fee shall be for a full 12-month period, but may not be prorated for business conducted for a portion of the year. Upon issuance, the business registration certificate shall be displayed within the business premises for viewing.

C. There is imposed on each entity engaging in adult business or licensed by the New Mexico Cannabis Control Division (“CCD”) in the City a cannabis/adult business registration fee for each calendar year. The fee of \$350.00 is imposed and shall be known as the “cannabis business registration fee.” The cannabis business registration fee shall be for a full 12-month period, but may not be prorated for business conducted for a portion of the year. Each entity licensed by the CCD, after obtaining said licensure, as a provisional license letter from the CCD shall not be sufficient, shall obtain a City cannabis business license annually per calendar year, including the additional fee for the appropriate license acquired by the CCD for each cannabis establishment location, commercial cannabis activity location or cannabis consumption area within the City limits, which shall be as follows, with the City retaining the right to incorporate additional fees from time to time:

Courier \$60.00 first year, then \$30.00 annually

Testing laboratory \$250.00 first year, then \$100.00 annually

Manufacturer \$250.00 first year, then \$100.00 annually

Producer \$275.00 first year, then \$150.00 annually

Retailer \$300.00 first year, then \$150.00 annually

Research laboratory \$250.00 first year, then \$100.00 annually

Vertically integrated cannabis establishment \$750.00 first year, then \$100.00 annually

Cannabis producer microbusiness \$50.00 for one hundred plants or less first year then \$50.00 annually, or \$100.00 for one hundred and one plants to two hundred fifty plants first year, then \$100.00 annually

Integrated Cannabis microbusiness (activity based) \$250.00 first year, then \$100.00 annually

Cannabis consumption area \$350.00 first year, then \$350.00 annually

Upon issuance, the cannabis business registration shall be displayed within the cannabis business premises for viewing. The applicant for a cannabis business registration, its principals, registered manager, and all employees must be at least twenty-one years of age, meet all requirements under New Mexico law, and hold valid licenses and registrations as required by the State of New Mexico, including all applicable cannabis licenses.

D. The City, as the local business registration, and cannabis business registration, authority, shall have the power and authority to: (i) issue, deny or revoke a City business registration, or cannabis business registration, and renewals of the same, and where necessary, to conduct public hearings related thereto; (ii) impose any sanctions on any business registration or cannabis business registration, including revocation, upon its own authority and initiation, or in response to a complaint by any person for any violation by the licensee after investigation and a public hearing; (iii) adopt forms, fees, and submission requirements for a City business registration and cannabis business registration.

160-3 Application for issuance.

A. Any person proposing to engage in business within the City limits shall apply to the City and pay a business registration fee as stipulated for each place of business within the City limits, prior to engaging in business.

B. Any person filing an application for issuance of a business registration shall include in the application the current taxpayer identification number, issued by the New Mexico Taxation and Revenue Department, and any other lawful information required by the City, including without limitation the disclosure of handling of hazardous, special materials, toxic or radioactive materials, or disclosure of whether the business is engaged in cultivating, processing, producing, manufacturing or sales of cannabis, or goods and services derived from cannabis. For each business engaged in any of the aforementioned matters, along with its application, such business shall submit: (i) a description of the type of products to be cultivated, processed, produced, manufactured or sold; (ii) the equipment to be used, including a list of any solvents, gases, chemicals or other compounds that will be used, kept or created in the course of business, including the location of such materials and how such materials will be stored; (iii) the projected amount of electricity to be used on a monthly basis and a list of equipment which will use such electricity, including the source of all electricity, and a letter from the applicable electric utility stating that the power capacity at the proposed location is sufficient for the intended use; (iv) the projected amount of water to be used on a monthly basis and a description of what the water will be used for, including the source of all water used by the business, and a letter from the applicable water utility stating the water capacity at the proposed location is sufficient for the intended use; (v) the projected amount of wastewater to be produced on a monthly basis and a description of what solvents, chemicals, compounds or other elements may be included in the wastewater, including how and where the wastewater will be disposed of, a wastewater disposal

plan, and a letter from the applicable wastewater utility stating that the wastewater capacity at the proposed location is sufficient for the intended use; (vi) an odor control plan indicating how the applicant intends to comply with the requirements of City and State laws and regulations; (vii) a security plan indicating how the applicant will comply with the requirements of City and State law and regulations; (viii) a site plan to scale and dimensioned, depicting the building footprint, parking areas, vehicle circulation and driveways, pedestrian facilities, lighting, landscaping, loading facilities, freestanding sign locations, snow removal strategy, trash receptacle location and fences; (ix) all cannabis-related businesses that handle or produce water contaminated by cannabis and cannabis products shall submit a water reclamation plan to ensure water within the City is not contaminated; and (x) a letter of authorization with original signatures from the owner(s) of the subject property stating their agreement with the intended use of the property.

C. The City shall not issue a business registration authorizing the conduct of commercial activity to any person or entity whose records reflect any unresolved noncompliance with the business registration provisions or any other City ordinances or regulations. No rights, benefits, permits, approvals or other such items contained in this Chapter 160 shall be transferred, conveyed or assigned to any other entity or location.

160-4 Renewal, revocation, late fee and violation.

A. Before the expiration of the business registration or cannabis/adult business registration, any person or entity with a place of business in the City and subject to this subchapter shall apply to renew the business registration and shall pay an annual fee of \$35.00 to the City for each business registration and \$350.00 for each cannabis/adult business registration.

B. The City shall not issue a renewal for the conduct of commercial activity to any person or entity whose records reflect any unresolved non-compliance with the business registration provisions or any other City ordinances or regulations.

C. Compliance with this Section 160 shall not exempt any business from compliance with all other applicable provisions of the City ordinances and regulation.

D. If any business is conducted in violation of this Article I of Section 160, the City may institute appropriate legal action brought to prevent the conduct of business or to restrain, correct or abate the violation. Any person who has not paid the registration fee for issuance or renewal by the deadline date shall be sent a notice of violation, ordering appearance before the City Clerk within 30 days from date notice is mailed, to show cause why the City should not initiate proceedings under this Article I of Section 160. Upon the City finding evidence of a violation of this Section, the City may set a hearing before the Governing Body to consider revocation or any other appropriate action. At such hearing, the Governing Body will make findings as to the reason(s) for revoking the registration or allowing it to remain in place with conditions. Revocation requires the business to immediately cease any and all commercial activity. The City, in its sole discretion, may fine a business for violation of this Section, up to \$300.00 for each separate violation, with cumulative fines for each day a violation continues.

E. The Governing Body hereby declares and determines that the licensing and regulation of certain businesses would be conducive to the promotion and protection of the health and general welfare of the City. The fees imposed in this Section upon businesses which are hereby determined to affect the health and general welfare of the City shall bear a reasonable relation to the actual costs of the City in regulating each place of business named herein.

Section 3. The Code of the City of Las Vegas is hereby amended by repealing and replacing Sections 450-7 limited to the definition of “HOME OCCUPATION”, 450-119(D)(3), 450-120(D)(2), 450-121(D)(2), 450-122(D)(1), 450-123(D)(1), 450-124(D)(1), 450-125(C)(2), 450-125(D)(1), 450-126(C)(1), 450-126(D)(1), 450-127(D)(1), 450-128(C)(3), 450-128(D)(3), 450-129(D)(1), 450-130(E), 450-131(C) with the aforementioned portions to read as follows:

450-7 HOME OCCUPATION. Any occupation or business activity that results in a product or service and that is conducted for gainful employment in a dwelling unit by a person residing in that dwelling unit. A home occupation is customarily incidental to the residential use of the dwelling unit. Cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), shall not be a home occupation. The words in this Chapter 450 related to cannabis shall have the meanings of the words as expressly defined in NMSA 26-2C-2, unless expressly defined herein.

450-119(D)(3) Industrial use, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-120(D)(2) Commercial uses, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-121(D)(2) Commercial uses, except for those uses specifically listed as special uses. There shall be no cannabis consumption area, commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-122(D)(1) Commercial uses, except for those uses specifically listed as special uses or allowed under a home occupation. There shall be no cannabis consumption area, commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-123(D)(1) Commercial uses, except for those uses specifically listed as special uses or allowed under a home occupation. There shall be no cannabis consumption area, commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-124(D)(1) Agricultural, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-125(C)(2) Cannabis consumption area or cannabis retailer, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), at least 300 feet from zones RA, RR, R-1, R-2 or R-3.

450-125(D)(1) Agriculture and cannabis producer activity which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-126(C)(1) The cannabis retailer sales which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), at least 300 feet from zones RA, RR, R-1, R-2 or R-3.

450-126(D)(1) Agricultural, and cannabis producer activity which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-127(D)(1) Agricultural, cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-128(C)(3) Nursery for plants, and cannabis producer and cannabis manufacturer activities which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), at least 300 feet from zones RA, RR, R-1, R-2 or R-3.

450-128(D)(3) Commercial uses, cannabis consumption area and cannabis retailer sales which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-129(D)(1) Agricultural uses, cannabis consumption area and commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

450-130(E) Development standards. A planned community shall be considered a separate zoning district in which the development plan, if and when approved, shall establish the restrictions and regulations according to what kind of development shall occur. However, R-1 setback yard development standards shall prevail for all principal permitted uses structures. There shall be no cannabis consumption area or commercial cannabis activity, or any portion thereof, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”), or within 300 feet of zones RA, RR, R-1, R-2 or R-3.

450-131(C) Uses requiring special use permit. Refer to uses permitted by special use in the respective zone. There shall be no cannabis consumption area, cannabis manufacturer or cannabis producer activity, which requires a license pursuant to the New Mexico Cannabis Regulation Act (“CRA”).

Section 4. The Code of the City of Las Vegas is hereby amended by repealing and replacing Sections 290-99(A) and Chapter 301 to read as follows:

290-99 Penalty.

A. If any person violates any of the provisions of this chapter, excluding Section 290-31, the City shall assess a fine for such violation. The mandatory amounts are as follows: first offense \$500, second offense \$750, third and each subsequent offense \$1,000. Each day this chapter is violated shall constitute a separate violation.

301-1 Title and purpose.

This chapter is called and may be cited as the "Nuisances Code Ordinance" for the Municipality of Las Vegas, New Mexico (the "City"). The abatement of public nuisances for the protection of public health, safety and welfare is a matter of local concern. The purpose of this Chapter 301 is to abate public nuisances. The actions provided in Chapter 301 are designed to abate public nuisances by removing the property, both real and personal, from criminal and unsafe use, to make property owners vigilant in preventing public nuisances on, in or using their property and responsible for the lawful use of their property by tenants, guests and occupants, and to deter public nuisances.

301-2 Definitions and rules of construction.

In the construction of the Nuisances Code Ordinance, the following definitions and rules of construction shall be observed, unless it shall be otherwise expressly provided in any section of this chapter, or unless inconsistent with the manifest intent of this chapter:

CITY CODE ENFORCEMENT OFFICER

A City employee who is charged with carrying out and enforcing provisions of the City Code, including but not limited to the provisions of this chapter.

LEGAL OR EQUITABLE INTEREST OR RIGHT OF POSSESSION

Every legal or equitable interest, title, estate or right of possession recognized by law and equity, including without limitations freeholds, life estates, future interests, condominium rights, time-share rights, leaseholds, easements, licenses, liens, deeds of trust, contractual rights, mortgages, security interests, real estate contract, and any right or obligation to manage or act as agent or trustee for any person or entity holding any of the foregoing.

OWNER

Includes any person that holds record title or an interest in or to the property and any person entitled under any agreement to the control or direction of the management or disposition of the building or premises where the violation in question occurs.

PERSON

Any human being or legal entity, whether incorporated or unincorporated.

SHALL

"Shall" is mandatory, and "may" is permissive.

SOLID WASTE

That which is commonly discarded as waste; or which, if discarded on the ground, will create or contribute to an unsanitary, offensive or unsightly condition. Refuse includes, but is not limited to, the following items or classes of items: waste food; wastepaper and paper products; cans, bottles, or other containers; junked household furnishings and equipment; junked parts or bodies of automobiles and other metallic junk or scrap;

portions or carcasses of dead animals; and collection of ashes, dirt, yard trimmings or other rubbish.

STREET

Any thoroughfare that can accommodate pedestrian or vehicular traffic, is open to the public and is under the control of the City of Las Vegas.

301-3 Violations and penalties.

Any person or entity found guilty of violating any of the provisions of this chapter shall be fined \$500.00 or imprisoned for a period of not more than 90 days, or both, and each day this chapter is violated shall constitute a separate offense. The aforementioned \$500.00 fine is absolute, and no judge shall exercise discretion of said amount.

301-4 Prohibitions and enforcement.

It shall be unlawful for any person or entity who is the owner, manager, tenant, lessee, occupant or other person having any legal or equitable interest or right of possession in or to any real property, motor vehicle, or other personal property ("Interested Person") to cause, permit, maintain, promote, facilitate, fail to prevent, or allow the creation or maintenance of a public nuisance as described in Section 301-6 on such property. For purposes of this chapter, the owner of property means the person in control of the property, or the owner's representative, an agent or attorney-in-fact or power-of-attorney of the owner. Enforcement of a violation of Section 301-6, and administration, supervision or performance of actions taken pursuant to this chapter shall be through the City's code enforcement division.

301-5 Nuisance declared.

For the health, safety and welfare of the City residents and visitors, it is necessary to prohibit certain activities and matters from the public view, including without limitation the observation of activities involving cannabis and cannabis products by persons under 21 years of age, and the accumulation of junk, trash, used tires, vehicle parts, certain vehicles as described below, solid waste on property, and persons living, squatting or otherwise inhabiting a structure without utilities within the City limits by declaring such matters a nuisance. It shall also be unlawful to be in the possession of or maintain a lot, building or structure that is dangerous, unsafe or not compliant with applicable codes, if said non-compliance poses a credible danger, fire hazard or otherwise creates a public nuisance. The following are hereby declared to be a public nuisance:

(A) Abandoned property. Any deteriorated, wrecked, dismantled or partially dismantled, inoperable and/or abandoned property, or in unusable condition, having no value other than nominal scrap or junk value, which has been left unprotected from the elements outside of a permanent and enclosed structure. Without being so restricted this shall include deteriorated, wrecked, dismantled or partially dismantled, inoperable, or abandoned motor vehicles, abandoned mobile homes, trailers, boats, machinery, refrigerators, washing machines and other appliances, plumbing fixtures, furniture, building materials and any other similar articles or personal property in such condition. This Section A is not applicable to areas where such

activity is within the contemplated purpose of duly licensed businesses and such property is kept in a wholly enclosed garage or structure.

(B) Breeding place for flies, rodents and/or pests. The unhealthful accumulation or stockpiling of manure, garbage, tires, debris or discarded items which is a potential harboring place and breeding area for insects, rodents or other non-domesticated animals.

(C) Burning. The burning of any excrement, chemical or plastic substances, or any liquid or substance in violation of federal or state dischargeable substance statutes or City ordinances on any property. This includes the burning of any tires, rubber products, asphalt shingles, plastic, tar paper or any substance which may cause a black, hydrocarbon, toxic, or noxious plume of smoke.

(D) Combustible materials. Any dangerous accumulation upon any property of combustible refuse matter such as paper, sweepings, rags, grass, dead trees, tree branches, wood shavings, wood, magazines, cardboard and other like materials, including any flammable or volatile solvents that may be used to manufacture cannabis products.

(E) Dead animals. For the owner of a dead animal to permit it to remain undisposed for more than seventy-two (72) hours.

(F) Disposal or dumping. The accumulation of garbage, refuse, waste, trash, rubbish or building materials upon any property outside an approved landfill.

(G) Dangerous buildings. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary or unmaintained condition that it is a menace or danger, or potential danger, to the health of people residing in the vicinity thereof, presents a fire hazard, or presents a danger to adjacent or nearby properties. Any building, property or other structure shall be considered dangerous and not habitable for purposes of this Chapter if said building, property or structure is not connected to, able to use services from, or does not have the infrastructure to provide, the following utilities: potable water from the City or a functioning and producing well; electricity; solid-waste removal; wastewater services from the City or a functioning septic system.

(H) Odors. All disagreeable or obnoxious odors or stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench, including smoke and fires.

(I) Pollution. The pollution of any public well, stream, lake, canal, or body of water by sewage, dead animals, dairy waste, industrial wastes, agricultural wastes, cannabis wastes, or other substances. Polluting water consists of knowingly or unlawfully introducing any object or substance into any body of public water causing it to be offensive or dangerous for human or animal consumption, or human or animal use. Polluting water constitutes a public nuisance. For the purpose of this section, "body of water" means any public river or tributary thereof, stream, lake, pond, reservoir, aquia, canal, ditch, spring, well or declared or known groundwaters.

(J) Illegal activity. Any building, structure, or other place or location where any activity is conducted, performed or maintained in violation of law.

(K) Any activity related to cannabis at any location where cannabis or cannabis products are cultivated, processed, manufactured, produced, stored, held, weighed, packaged, used, ingested, disposed or wasted shall not create a nuisance or disturbance that can be observed or perceived from any public place or public property, any adjacent or nearby property, or the exterior of the structure in which said activities are taking place, including without limitation, (i) any form of signage not approved by the City, (ii) abnormal or unusual odors, smells, fragrances or other olfactory stimulus, (iii) light pollution, glare or brightness that disturbs or affects other persons or adjacent or nearby property, or (iv) noise or vibration from ventilation fans that disturb or affect another person or another property. The smell or odor of cannabis or cannabis products shall not be capable of being detected by a person with a normal sense of smell from any adjoining or nearby lot, parcel or tract of land, or from any public right of way, public place or public property. Any property where cannabis is cultivated, processed, manufactured, tested, stored, held, sold, weighed, packaged, used, disposed or wasted shall be used, operated and maintained in such a manner in which at no time shall it constitute a nuisance or hazard to the surrounding area, buildings, businesses or neighborhood.

(L) Unsanitary premises. It shall be unlawful for any person to permit or cause to remain in or on such person's premises any solid waste, weeds, trash, rubbish, overgrown plants or trees, vehicle parts, or other condition which is unsanitary, unmaintained or contrary to public health or safety.

(M) Solid waste receptacles. All solid waste receptacles shall be maintained in a clean and sanitary condition by the owner or person using the receptacle, and such receptacles shall be located only in such places as shall be readily accessible for removing and emptying the same, but shall not be placed in such place or position as may constitute a nuisance or obstruction to vehicular or pedestrian traffic.

(N) Definitions. As used in this chapter, the following terms shall have the following meanings:

DISMANTLED OR PARTIALLY DISMANTLED VEHICLE

Any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.

INOPERATIVE OR INOPERABLE MOTOR VEHICLE

Any motor vehicle which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power.

MOTOR VEHICLE

Any wheeled vehicle which is self-propelled or intended to be self-propelled.

DANGEROUS BUILDING/STRUCTURE

Any building or structure from which the foundation, windows, roofs, walls, vents, floors, and/or doors are susceptible to precipitation, insects, rodents, and vermin entering

the building, or causing an infestation that can affect the public comfort, health, peace, welfare, or safety.

UNSAFE BUILDING/STRUCTURE

Any building or structure, or any part of a building or structure, that is in an impaired condition that makes it unsafe to any person, animal or nearby or adjacent property.

301-6 Notice to abate.

Any municipal code enforcement officer, or other person designated by the City, upon observing any violation of this chapter shall issue a notice to an Interested Person. The notice shall describe the violation and shall provide a time limit for remedying the violation by the Interested Person, which shall not be less than two days or more than five days after notice is given by the City. The violation notice may be served personally upon any of the aforementioned persons in this section, by certified mail to the property's address or posted on the property

301-7 Contents of notice; red tag; time limit for compliance.

(A) The first notice will be in the form of a violation notice (red tag) which will be delivered pursuant to 301-7. The red tag will describe the violation and contain a compliance date. If the violation is not fully remedied by the stated deadline, then the City, in its sole discretion, may proceed with abatement of the violation, with the filing of a complaint in a court of law, or may issue a second red tag notice. If the violation is not fully remedied by the deadline stated in the second red tag, then the City may proceed, in the City's sole discretion, with abatement of the violation or with the filing of a complaint in a court of law. The property owner may request in writing from the Community Development Department an extension of the red tag deadline, which may be granted in the City's sole discretion. The City, in its sole discretion, may bypass the issuance of a violation notice and proceed directly to filing a complaint in a court of law.

301-8 Abatement by City.

Upon the failure to timely abate the nuisance pursuant to 301-7, the City may proceed without notice to abate such nuisance itself.

301-9 City's cost declared lien.

Any and all costs incurred by the City in the abatement of a nuisance, or for amounts or fines assessed or arising under this chapter, shall constitute a lien against the property upon which the nuisance existed, which lien, and its contents, shall be recorded in a form that is substantially similar to the lien form required by NMSA 3-36-1. The principal amount of any lien imposed by the City under this Chapter shall bear interest at the rate of twelve percent per annum from the date of recording of the lien. The City, in its sole discretion, may foreclose on the lien, sell or assign such lien, or take any other action it deems necessary regarding the lien.

301-10 Alternative method of abatement.

A. Except as otherwise provided in this Section, an action filed in court for abatement shall be governed by the New Mexico Rules of Civil Procedure.

B. A civil action to abate a public nuisance may be brought in any court of competent jurisdiction against any person or entity who violates any provision of this Chapter.

C. For cases in the City's Municipal Court, a lien against real estate may be foreclosed in the same manner that mortgages or other liens against real estate are foreclosed with like rights of redemption. A lien against personal property may be foreclosed in the same manner security interests are foreclosed. At the trial of any case foreclosing any lien, the recitals of the lien or other evidence of indebtedness shall be received in evidence as prima facie true. In the foreclosure of any lien created by municipal ordinance or under authority of law, a reasonable attorney's fee shall be granted by the court as part of the reasonable costs of the case.

D. The City may file a criminal complaint for public nuisance in the appropriate court as provided by New Mexico law.

E. Pursuant to NMSA 30-8-8(B), as it may be amended, a civil action to abate a public nuisance may be brought, by verified complaint in the name of the state without cost, by any public officer or private citizen, in the district court of the county where the public nuisance exists, against any person, corporation or association of persons who shall create, perform or maintain a public nuisance.

Section 5. The Code of the City of Las Vegas is hereby amended by repealing and replacing Section 440-18 to read as follows:

440-18 Limitation of use. Resale of water service or the furnishing of water service to others by a customer shall not be permitted except where such resale or furnishing of service is provided for in the applicable schedule and in a written agreement between the customer and the City. City municipal water and wastewater shall not be used for the commercial cultivation, processing, manufacturing or production of cannabis or cannabis products or other commercial agricultural or commercial dairy purposes.

Section 6. The Code of the City of Las Vegas is hereby amended by repealing and replacing Sections 450-83, 450-84 and 450-88 to read as follows:

450-83 Filing fee for variance, conditional use and special use permit. A fee of \$175.00 for each variance or special use application and a fee of \$800.00 for each conditional use application shall be paid to the City of Las Vegas through the Community Development Department upon the filing of such application as provided in this chapter. Paying of the application fee shall not be construed in any way to be approval of the proposed permit, and no refund of any fee shall be granted under any circumstances. All entities which submitted a medical cannabis application or recreational license application with the New Mexico Cannabis Control Division ("CCD") for commercial cannabis activity or cannabis consumption area, including without limitation all entities currently and completely licensed for medical use pursuant to the Lynn and Erin

Compassionate Use Act, are required to submit a conditional use application to the City, pay the non-refundable application fee and provide a copy of the entity's approved license from the CCD for the City's consideration of conditional use for commercial cannabis activity or a cannabis consumption area, with the understanding that submittal of such application to the City shall not in any way guarantee approval. Currently licensed hemp producers in good standing with the New Mexico Environmental Department and the Secretary of State's Office, and currently licensed medical cannabis producers in good standing with the New Mexico Department of Health and the CCD seeking dual licensure for recreational cannabis production, must also submit a conditional use application to the City, and comply with all City codes.

450-84 Setting hearings. All completed applications for variances, conditional use or special use permits, as provided in this chapter, shall be set by the City Manager or City Manager's designee for public hearing. The date of the first hearing shall not be less than 15 days or more than 60 days from the date of the filing of a completed application.

450-88 Board to act on variance, special use or conditional use.

A. Not more than 60 days following completion of its investigation and hearings on the application for a variance, conditional use or special use, the Board of Adjustment shall by majority vote: (1) grant or deny the variance or special use permit subject to specified conditions; and (2) adopt written findings which provide all facts relied upon by the Board in rendering its decision, set forth whether the facts meet or fail the requirements of this chapter, and state the reasons for any conditions imposed by the Board; all of which will be provided in the minutes of the Board's meeting. All special or conditional use applications shall have a site plan attached to the application before the City will review or process the application. Approval of the site plan shall be obtained prior to any development of the property. The site plan at a minimum shall include the following: (i) scale and north arrow; (ii) lot boundaries and easements; (iii) existing and proposed utilities, (iv) existing and proposed rights-of-way; (v) proposed structures with uses, dimensions and setbacks; (vi) proposed ingress, egress, parking and circulation; (vii) landscaping and landscape buffers; (viii) elevations; (ix) adjacent property characteristics; and (x) preliminary drainage plan.

B. Failure of the Board to act on any variance, special use or conditional use application within 60 days from the date of the filing of a completed application shall qualify the applicant to request a hearing before the City's Governing Body. No rights, benefits, permits, approvals or other such items contained in this Chapter 450 shall be transferred, conveyed or assigned to any other entity or location.

Section 7. The Code of the City of Las Vegas is hereby amended by repealing and replacing Section 192-53 to read as follows:

192-52 Unlawful possession of cannabis; penalties.

Cannabis shall have be defined as provided in the Cannabis Regulation Act. It shall be unlawful to use, possess, cultivate, process, manufacture, sell, give away, or take any other action regarding cannabis that is contrary to law.

Section 8. The Code of the City of Las Vegas is hereby amended by repealing and replacing Section 12-6-12.2(K) to read as follows:

If a person is convicted of driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of § 12-6-12.1A, B, C or D, a first offender, at the discretion of a trial court after a presentence investigation, including an inquiry to the Motor Vehicle Division of the Transportation Department concerning the driver's driving record, may receive a deferred sentence on the condition that the driver attend a driver rehabilitation program, also known as the "driving while intoxicated school," approved by the court and the Division and such other rehabilitative services as the court may determine to be necessary; however, imposition of a deferred sentence shall classify the person as a first offender. The Municipal Court shall forward to the Division the abstract of all proceedings and the report of the disposition of the case. For the purpose of this subsection, cannabis, as defined by NMSA 26-2C-2, shall be classified as a drug.

Section 9. The Governing Body finds, determines and declares that this ordinance is promulgated for the health, safety and welfare of the public, and that this ordinance is necessary for the preservation of health, safety and for the protection of the public welfare.

Section 10. Severability. The provisions of this ordinance are declared to be severable, and if any portion of this ordinance, for any reason, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance. The Governing Body specifically finds and declares that it would have passed this ordinance, and each part thereof, regardless of the fact that one or more parts could be declared invalid, severable or unconstitutional.

Section 11. Effective Date. This ordinance shall become effective upon the execution by the Mayor and the affirmative vote of the majority of the Governing Body.

PASSED, ADOPTED and ENACTED this _____ day of November, 2021.

Mayor Louie A. Trujillo

ATTEST:

Reviewed and approved as to legal sufficiency only:

Casandra Fresquez, City Clerk

Scott Aaron, City Attorney